

**California State Board of Pharmacy**

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STATE AND CONSUMER SERVICES AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

ARNOLD SCHWARZENEGGER, GOVERNOR

NO ACTION**Legislation Update**

The 2005 Legislation Session ended on September 9, 2005. The Governor had until October 9, 2005 to sign, veto, or let bills become law without his signature that were passed during the session. The Legislature reconvenes on January 4, 2006 for the 2006 Legislative Session.

The board took positions on 16 bills; below is a chart summarizing the status of each of the bill that made it to the Governor's desk.

Bill	Board Position	Vetoed/ Signed	Chapter Number
AB 446	Support	Vetoed	----
AB 497	Support	Signed	Chapter 301
AB 522	Support	Signed	Chapter 469
SB 644	Support	Signed	Chapter 417
SB 734	Oppose Unless Amended	Signed	Chapter 487
SB 798	Support	Signed	Chapter 444
SB 1111	Support	Signed	Chapter 621
SCR 49	Support	Signed	Chapter 123

Copies of enrolled or chaptered bills and Governor's signing and veto messages, if any, are in Attachment A.

Below is greater detail on bills the board analyzed and watched.

Status of Bills with a Board Position**AB 595 (Negrete McLeod) Pharmacy: Compounding of Prescription Drugs****Board Sponsored Bill**Board Position: **Support**

Status: Two-year bill

Note: the Department of Health Services (DHS) took an oppose position on the bill; a copy of DHS's oppose letter is in Attachment A.

May 26, 2005 version of the bill - **Attachment A**

Summary: The bill would define compounding of a prescription drug for the purposes of the Pharmacy Law and would make other related changes in that regard.

SB 1111 (B&P Committee) Omnibus Bill - carrying board-sponsored provisions

Board Position: **Support**

Status: **Chapter 621**

Enrolled bill – Attachment A

Summary: This is a committee omnibus bill that includes changes sought by the board to pharmacy law. These change are:

B&P 4005 & 4206

Repeals outdated rules of professional conduct code.

B&P 4053

Makes technical amendments to clarify the requirements for designated representatives, the non-pharmacists who oversee the operations of drug wholesalers.

B&P 4127.5, 4205 & 4400

Amends 4127.5 to specifically exempt government and tribal governments from the license fee for sterile injectable compounding pharmacies. Deletes the reference to B&P Section 4130 in B&P Section 4205 because this section was repealed in 2000. Section 4400 has numerous changes.

B&P 4231 & 4232

Establishes in the B&P code 30 hours of CE for license renewal; specifies that a pharmacist who fails to provide proof within 60 days of license renewal of CE completion will be issued an inactive license and barred from practicing pharmacy; changes the requirement for the CE exemption from two years after graduation to the first renewal of a pharmacist license; and changes the term “pharmaceutical education” to “pharmacy education.”

B&P 4360-4373

Makes changes to the Pharmacist Recovery Program most of which are technical changes.

B&P 4023.5, 4038, 4114, 4115, 4115.5 & 4202

Updates the statutes for the pharmacy technician Program and establishes “direct supervision and control” as the standard for pharmacist supervision of pharmacist interns, pharmacy technicians, and pharmacy technician trainees

B&P 4315

Deletes the requirement that a copy of a pharmacist’s letter of admonishment be kept on the pharmacy’s premises.

B&P 4104

Requires pharmacies to notify the board within 30 days of a pharmacist who engages in theft, diversion, or self use of dangerous drugs. Additionally, require pharmacies to handover evidence against pharmacists’ engaged in these activities. This proposal would include a provision that would give immunity from liability to a person, who in good faith makes a report to the board.

AB 21 (Levine) Pharmacists: Practice Requirements

Board Position: **Oppose**

Status: Two-year bill

Summary: This bill would require a pharmacist to dispense a prescription except in specified circumstances. The bill would allow a pharmacist to decline on ethical, moral, or religious grounds to dispense a drug pursuant to a lawful

request only if he or she satisfies certain conditions. The bill would make a violation of those provisions unprofessional conduct and would also make harassment, as specified, of a patient by a pharmacist unprofessional conduct, subject to disciplinary action by the board. (B&P 4069)

AB 225 (Negrete McLeod) Electronic Prescription Information

Board Position: Support if Amended

Status: Two-year bill

Summary: This bill would allow health care professionals to receive nonmonetary remuneration, in the form of hardware, software, or information technology and training services, necessary and used solely to receive and transmit electronic prescription information in accordance with the standards set forth in Section 1860D-4(e) of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104), in specified circumstances.

AB 446 (Negrete McLeod) Settlement Agreements (Gag Clauses)

Board Position: **Support**

Status: **Vetoed**

Enrolled bill and Veto Message – Attachment A

Summary: This bill is intended to close a loophole in current law that allows a licensee under the supervision of DCA to prohibit a consumer who settles a civil suit from also filing a complaint or otherwise cooperating with a regulator. This is the second year Governor Schwarzenegger has vetoed these provisions.

AB 497 (Negrete McLeod) Drug Wholesalers and Manufacturers: Nonresident Wholesaler License Surety Bond

Board Position: **Support**

Status: **Chapter 301**

Chaptered bill – Attachment A

Summary: Existing law, operative January 1, 2006, to January 1, 2011, requires an applicant for the issuance or renewal of a nonresident wholesaler license to submit a surety bond of \$100,000, or an equivalent means of security, for each site to be licensed by the nonresident wholesaler through which dangerous drugs or dangerous devices are to be shipped, mailed, or delivered to a site located in California. This bill would instead require a single \$100,000 surety bond, or an equivalent means of security, to be submitted by an applicant for the issuance or renewal of a nonresident wholesaler license.

AB 522 (Plescia) Automated Drug Delivery System

Board Position: **Support**

Status: **Chapter 469**

Note: This bill contained an urgency clause making the provisions **effective October 4, 2005.**

Chaptered bill – Attachment A

Summary: This bill provides clean-up language for AB 2184 (Chapter 342, Statutes of 2004), Automated Dispensing Devices. Additionally, the measure prohibits the Department of Health Services (DHS) from paying for any prescription drug or other therapy to treat erectile dysfunction for registered sex offenders and authorize the Department of Justice to share information with DHS concerning registered sex offenders.

AB 657 (Karnette) Pharmacies: Prescription Containers: Labels

Board Position: **Support**

Status: Two-year bill

Summary: This bill would revise the prescription labeling requirements to require a container to be labeled with, among other things, the “intended purpose” for which the drug was prescribed, if the intended purpose is listed on the prescription.

AB 896 (Matthews) Clinical Laboratories

Board Position: **Support**

Status: Two-year bill

Summary: This bill would authorize a pharmacist to serve as a laboratory director of a clinical laboratory that provides routine patient assessment procedures, as defined, under specified conditions.

SB 152 (Speier) Pseudoephedrine

Board Position: **Oppose**

Status: Two-year bill

Summary: The bill would require 1) pseudoephedrine products to be sold in a pharmacy and by a pharmacist or pharmacy technician; 2) pseudoephedrine to be stored in a locked area in view of the pharmacist; 3) limit the quantity of product sold to no more than nine grams of pseudoephedrine in a within any 30 day period; 3) the purchaser produce photo identification; and 4) the purchaser to sign a document with specific information about the transaction. Senate Bill 152 would place these provisions in B&P 4051.1.

SB 401 (Ortiz) Medical information: Pharmacies: Marketing

Board Position: **Oppose Unless Amended**

Status: Two-year bill

Summary: This bill would define marketing to include written communication that is provided by a pharmacy to a patient about a different drug or treatment than that being dispensed by the pharmacy and that is paid for, or sponsored by, a manufacturer, labeler, or distributor of prescription drugs.

Amendments: 1) Provide a means for consumers to opt out of receiving advertisements with their prescriptions. 2) Require advertisements to be marked with the entity paying for the advertisement.

SB 592 (Aanestad) Acute Care Hospitals: Inpatient Pharmacy Technician Services

Board Position: **Support**

Status: Two-year bill

Summary: This bill would permit general acute care hospitals to employ specially trained pharmacy technicians to check the work of other pharmacy technicians (TCT) filling floor stock, ward stock, and unit dose cassettes.

SB 644 (Ortiz) Dispensing Prescription Drugs And Devices Requirements

Board Position: **Support**

Status: **Chapter 417**

Chaptered bill – Attachment A

Summary: The bill would require a health care licentiate to dispense drugs and devices pursuant to a lawful prescription or order except in specified circumstances, including on ethical, moral, or religious grounds asserted by the licentiate. (B& P 733) the board gained amendments that will allow the board to cite and fine or issue letters of admonishment for violations of the bill's provisions.

SB 734 (Torlakson) Controlled Substances

Board Position: **Oppose Unless Amended**

Status: **Chapter 487**

Chaptered bill – Attachment A

Summary: The bill is sponsored the Department of Justice. The author's intent is to make clean-up changes to facilitate the effective operation of the CURES, the prescribing and dispensing of controlled substances, and the program duties of the Bureau of Narcotics Enforcement. Among other provisions it transfers the approval of security printers from the board to the Department of Justice. The board sought a technical amendment to cap board spending for CURES to the amount of money appropriated by the state budget.

SB 798 (Simitian) Prescription Drugs: Collection And Distribution Program

Board Position: **Support**

Status: **Chapter 444**

Chaptered bill and Signing Message – Attachment A

Summary: This bill authorizes a county to establish, by local ordinance, a repository and distribution program for distributing surplus unused medications to persons in need of financial assistance to ensure access to necessary pharmaceutical therapies. The board provided substantial amendments to this bill which removed the board's "oppose" position.

SCR 49 (Speier) Medication Errors Panel

Boar Position: **Support**

Status: **Chapter 123**

Chaptered bill – Attachment A

Summary: This measure creates a panel to study the causes of medication errors and recommends changes in the health care system to reduce errors associated with the delivery of prescription and over-the-counter medication to consumers. The measure requires the panel to convene by October 1, 2005,

and to submit to the Senate Committee on Health a preliminary report by March 1, 2006, and a final report by June 1, 2006.

Status of Bills of Interest

AB 71 (Chan) Pharmaceuticals: Adverse Drug Reactions: Office of Ca. Drug Safety

Status: Two-year bill

Summary: This bill would establish the Office of California Drug Safety Watch, which would require the construction of a public database of adverse prescription drug reactions.

AB 72 (Frommer) Prescription Drugs: Clinical Trials

Status: Two-year bill

Summary: This bill would establish the Patient Safety and Drug Review Transparency Act in order to ensure that information regarding clinical trials of prescription drugs is available to the public, physicians, and researchers.

AB 73 (Frommer) Prescription Drugs: Importation: Procurement

Status: **Vetoed**

Enrolled bill and Veto Message – Attachment A

Summary: This bill would have established a state Web site to help patients purchase lower-cost prescription drugs from pharmacies in Canada, U.K., and Ireland.

AB 74 (Gordon) California Rx Prescription Drug Hotline

Status: Two-year bill

Summary: This bill would establish a hotline that state residents could call for information about state and federal prescription drug discount programs.

AB 75 (Frommer) Pharmaceutical Assistance Program

Status: Two-year bill

Summary: This bill would establish a prescription drug discount program for low-income state residents.

AB 76 (Frommer) Office of Pharmaceutical Purchasing

Status: **Vetoed**

Summary: This bill would have placed the responsibilities of several state agencies under a new state Office of Pharmaceutical Purchasing to purchase prescription drugs.

AB 77 (Frommer) Medi-Cal: Clinics: Reimbursement

Status: **Chapter 503**

Summary: This bill revises the pharmaceutical goods and services reimbursement formula for federally qualified health centers and rural health clinics.

AB 78 (Pavley) Pharmacy Benefits Management

Status: **Vetoed**

Veto Message – Attachment A

Summary: This bill would have revised the pharmaceutical goods and services reimbursement formula for federally qualified health centers and rural health clinics.

AB 302 (B&P Committee) Omnibus Bill - carrying provisions for naturopathic doctors to furnish dangerous drugs

Status: **Chapter 506**

Chaptered bill – Attachment A

Summary: This bill adds naturopathic doctors who prescribe or order drugs in specified circumstances to the list of persons authorized to furnish dangerous drugs and write or issue prescriptions under the Pharmacy Law and the Uniform Controlled Substances Act. The bill charges the Bureau of Naturopathic Medicine with certain responsibilities with respect to compliance with and enforcement of the Pharmacy Law with respect to its licensees.

SB 19 (Ortiz) California Rx Program

Status: Two-year bill

Summary: This bill is sponsored by the Governor and would establish the California Rx Program to negotiate for lower price prescription drugs for lower income Californians.

Attachment A

AMENDED IN SENATE MAY 26, 2005
AMENDED IN ASSEMBLY APRIL 18, 2005
AMENDED IN ASSEMBLY MARCH 29, 2005
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 595

Introduced by Assembly Member Negrete McLeod

February 17, 2005

An act to amend Section 4051 of, to add Section 4019.5 to, to repeal Section 4033 of, and to repeal and add Section 4123 of, the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 595, as amended, Negrete McLeod. Pharmacy: compounding of prescription drugs.

Existing law, the Pharmacy Law, provides for the licensing and regulation by the California State Board of Pharmacy of pharmacists, pharmacies, and other related practices and makes a violation of that law a crime. The Pharmacy Law defines various terms for its purposes, including "manufacturer."

This bill would delete the definition of manufacturer. The bill would define compounding of a prescription drug for the purposes of the Pharmacy Law and would make other related changes in that regard. Because the bill would specify requirements for compounded drug products under the Pharmacy Law, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4019.5 is added to the Business and
2 Professions Code, to read:

3 4019.5. (a) "Compounding" means any of the following
4 activities occurring in a pharmacy pursuant to a prescription:

5 (1) Altering the dosage form or delivery system of a drug.

6 (2) Altering the strength of a drug.

7 (3) Combining components or active ingredients.

8 (4) Preparing a drug product from bulk chemicals.

9 (b) "Compounding" shall not include the reconstitution of a
10 drug pursuant to the manufacturer's direction for oral, rectal, or
11 topical administration.

12 ~~(c) This section shall not apply to over-the-counter drugs or~~
13 ~~nonprescription drugs.~~

14 SEC. 2. Section 4033 of the Business and Professions Code is
15 repealed.

16 SEC. 3. Section 4051 of the Business and Professions Code is
17 amended to read:

18 4051. (a) Except as otherwise provided in this chapter, it is
19 unlawful for any person to compound, furnish, sell, or dispense
20 any dangerous drug or dangerous device, or to dispense or
21 compound any prescription pursuant to Section 4040 of a
22 prescriber unless he or she is a pharmacist under this chapter.

23 (b) Notwithstanding any other law, a pharmacist may
24 authorize the initiation of a prescription, pursuant to Section
25 4052, and otherwise provide clinical advice or information or
26 patient consultation if all of the following conditions are met:

27 (1) The clinical advice or information or patient consultation is
28 provided to a health care professional or to a patient.

29 (2) The pharmacist has access to prescription, patient profile,
30 or other relevant medical information for purposes of patient and
31 clinical consultation and advice.

1 (3) Access to the information described in paragraph (2) is
2 secure from unauthorized access and use.

3 SEC. 4. Section 4123 of the Business and Professions Code is
4 repealed.

5 SEC. 5. Section 4123 is added to the Business and
6 Professions Code, to read:

7 4123. (a) A compounded drug product shall only be
8 dispensed or furnished to a patient pursuant to a prescription
9 meeting the requirements of Section 4040.

10 (b) A compounded drug product shall only be dispensed or
11 furnished to a patient where the prescription has been generated
12 solely within an established professional relationship between the
13 prescriber, patient, and dispensing pharmacy.

14 (c) A pharmacy may conduct anticipatory compounding of a
15 drug product in limited quantity, as defined by regulation of the
16 board, before receipt of a prescription order for that drug product,
17 where the quantity of each drug product compounded in
18 anticipation of receipt of prescription orders is based on a
19 documented history of receipt of prescription orders generated
20 solely within an established professional relationship between
21 prescribers, patients of the pharmacy, and the pharmacy.

22 (d) A pharmacy may contract with another pharmacy to
23 compound drug products on behalf of its patients.

24 (e) A pharmacy may only base its anticipatory compounding
25 on a documented history of prescription orders received for its
26 own patients or customers, and not those patients or customers of
27 pharmacies with which it has a contractual relationship.

28 (f) Notwithstanding any other provision of this chapter, a
29 pharmacist may do both of the following:

30 (1) Compound a drug product pursuant to a prescription, for
31 delivery to another pharmacy pursuant to a contract for the
32 purpose of dispensing or furnishing the drug product to the
33 patient named in the prescription, provided that the drug is not
34 compounded prior to the receipt of the prescription.

35 (2) Repackage a drug previously dispensed to the patient at the
36 request of the patient or the patient's agent.

37 ~~(g) This section shall not apply to over-the-counter drugs or~~
38 ~~nonprescription drugs.~~

39 SEC. 6. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the
4 penalty for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition of a
6 crime within the meaning of Section 6 of Article XIII B of the
7 California Constitution.

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California
Department of
Health Services

Department of Health Services



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SANDRA SHEWRY
Director

ARNOLD SCHWARZENEGGER
Governor

August 24, 2005

The Honorable Gloria Negrete McLeod
Member of the Assembly
State Capitol, Room 5016
Sacramento, CA 95814

Dear Assemblymember Negrete McLeod:

AB 595 (AS AMENDED MAY 26, 2005) – OPPOSE UNLESS AMENDED

The Department of Health Services (DHS) must inform you of its opposition to AB 595, as amended May 26, 2006, unless amended.

AB 595 attempts to define a professional standard of practice for compounding. AB 595's intent is to provide boundaries for pharmacy compounding because patients have been harmed after receiving a product compounded by a pharmacy of substandard quality or questionable safety. However, AB 595 will expand pharmacy compounding by allowing: 1) a pharmacy to contract with another pharmacy to compound any prescription drug, and 2) pharmacies to receive and use large quantities of bulk drug substances and manufacture large quantities of unapproved drug products (anticipatory compounding). DHS believes this expansion will further reduce public health protection for California residents and recommends the following amendments to restrict pharmacy compounding and to add some additional public health protections.

1. Specify that a pharmacist may compound a drug for an individual patient pursuant to a prescription.

Amend Section 4018.5 as follows:

Sections 4019.5, 4019.51 4019.52, 4019.53 are added to the Business and Professions Code, to read:

4019.5. (a) "Compounding" ~~means any of the following activities occurring in a pharmacy pursuant to a prescription:~~

- ~~—(1) Altering the dosage form or delivery system of a drug.~~
- ~~—(2) Altering the strength of a drug.~~
- ~~—(3) Combining components or active ingredients.~~

The Honorable Gloria Negrete McLeod
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~~—(4) Preparing a drug product from bulk chemicals is the combining, mixing, or altering of ingredients by a pharmacist or pharmacy intern and not a pharmacy technician in a pharmacy to create a customized drug product for an individual patient pursuant to a prescription or for prescriber office use.~~

(b) "Compounding" shall not include the reconstitution of a drug product pursuant to the manufacturer's direction for oral, rectal, or topical administration.

2. Define "adverse drug experience," "life threatening adverse drug experience," and "serious adverse drug experience."

Add Sections 4019.51, 4019.52, and 4019.53 as follows:

4019.51. An "adverse drug experience" is any adverse event associated with the use of a drug, whether or not considered drug related, including the following: an adverse event occurring in the course of the use of a drug product in professional practice; an adverse event occurring from drug overdose whether accidental or intentional; an adverse event occurring from drug abuse; an adverse event occurring from drug withdrawal; and any failure of expected pharmacological action.

4019.52. A "life-threatening adverse drug experience" is any adverse drug experience that places the patient at immediate risk of death from the reaction as it occurred, i.e., it does not include a reaction that, had it occurred in a more severe form, might have caused death.

4019.53. A "serious adverse drug experience" is any adverse drug experience occurring at any dose that results in any of the following outcomes: death, a life-threatening adverse drug experience, inpatient hospitalization or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect.

3. Retain the definition of manufacturer in the Business and Professions Code, eliminate the ability of one pharmacy to compound drugs for another pharmacy, provide parameters for the California State Board of Pharmacy to address when defining anticipatory compounding, and require serious adverse drug experiences and adverse drug experiences from compounded drugs to be reported to Board of Pharmacy.

SEC. 2. Section 4033 of the Business and Professions Code is ~~repealed~~ amended.

4033. (a) "Manufacturer" means and includes every person who prepares, derives, produces, compounds, or repackages any drug or device except a pharmacy that manufactures on the immediate premises where the drug or device is sold to the ultimate consumer.

The Honorable Gloria Negrete McLeod

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~~(b) Notwithstanding subdivision (a), "manufacturer" shall not mean a pharmacy compounding a drug for parenteral therapy, pursuant to a prescription, for delivery to another pharmacy for the purpose of delivering or administering the drug to the patient or patients named in the prescription, provided that neither the components for the drug nor the drug are compounded, fabricated, packaged, or otherwise prepared prior to receipt of the prescription.~~

(e) Notwithstanding subdivision (a), "manufacturer" shall not mean a pharmacy that, at a patient's request, repackages a drug previously dispensed to the patient, or to the patient's agent, pursuant to a prescription.

SEC. 3. Section 4051 of the Business and Professions Code is amended to read: 4051.

(a) Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she is a pharmacist under this chapter.

(b) Notwithstanding any other law, a pharmacist may authorize the initiation of a prescription, pursuant to Section 4052, and otherwise provide clinical advice or information or patient consultation if all of the following conditions are met:

(1) The clinical advice or information or patient consultation is provided to a health care professional or to a patient.

(2) The pharmacist has access to prescription, patient profile, or other relevant medical information for purposes of patient and clinical consultation and advice.

(3) Access to the information described in paragraph (2) is secure from unauthorized access and use.

SEC. 4. Section 4123 of the Business and Professions Code is repealed.

SEC. 5. Section 4123 is added to the Business and Professions Code, to read: 4123.

(a) A compounded drug product shall only be dispensed or furnished to a patient pursuant to a prescription meeting the requirements of Section 4040.

(b) A compounded drug product shall only be dispensed or furnished to a patient where the prescription has been generated solely within an established professional relationship between the prescriber, patient, and dispensing pharmacy.

(c) A pharmacy may conduct anticipatory compounding of a drug product ~~in limited quantity~~, as defined by regulation of the board in consultation with all California's pharmacy schools, before receipt of a prescription order for that drug product. ~~where in defining anticipatory compounding, the board in consultation with all California's pharmacy schools shall consider at least the following: all effects anticipatory compounding will have on the integrity, quality, or strength of the drug product; needed pharmacy records; drug product labeling requirements and storage conditions and restrictions; any additional required pharmacy equipment; and, the quantity of each drug product compounded in anticipation of receipt of prescription orders is based on a~~

documented history of receipt of prescription orders generated solely within an established professional relationship between prescribers, patients of the pharmacy, and the pharmacy.

~~(d) A pharmacy may contract with another pharmacy to compound drug products on behalf of its patients.~~

~~(e) A pharmacy may only base its anticipatory compounding on a documented history of prescription orders received for its own patients or customers, and not those patients or customers of pharmacies with which it has a contractual relationship.~~

~~(f) Notwithstanding any other provision of this chapter, a pharmacist may do both of the following:~~

~~(1) Compound a drug product pursuant to a prescription, for delivery to another pharmacy pursuant to a contract for the purpose of dispensing or furnishing the drug product to the patient named in the prescription, provided that the drug is not compounded prior to the receipt of the prescription.~~

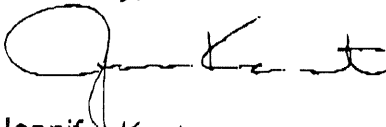
~~(2) Repackage a drug previously dispensed to the patient at the request of the patient or the patient's agent.~~

(1) The pharmacist in charge shall submit a report to the board of serious adverse drug experiences with drugs compounded in the pharmacy within 15 days. In addition to a description of the serious adverse drug experience, each report shall include a copy of the prescription and other records for the compounded drug including if available a copy of the label for the compounded drug.

(2) The pharmacist in charge shall submit a report to the board of all adverse drug experiences with drugs compounded in the pharmacy with their annual license application. In addition to a description of the adverse drug experience, each report shall include a copy of the prescription and other records for the compounded drug including if available a copy of the label for the compounded drug.

If you have any questions about our position, please contact my office at (916) 440-7500.

Sincerely,



Jennifer Kent
Deputy Director
Legislative and Governmental Affairs

cc: Kristin Triepke
Department of Consumer Affairs
Board of Pharmacy

Senate Bill No. 1111

Passed the Senate September 7, 2005

Secretary of the Senate

Passed the Assembly September 6, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER 621

An act to amend Sections 1725, 1741, 1750, 1750.1, 1750.2, 1750.3, 1751, 1752, 1752.5, 1753, 1753.1, 1753.5, 1754, 1756, 1757, 1770, 2053.5, 2053.6, 2064, 2230, 2234.1, 2466, 2472, 2474, 2475, 2492, 2493, 2498, 2499.8, 2741, 3735, 3739, 4005, 4038, 4053, 4104, 4106, 4114, 4115, 4115.5, 4127.5, 4161, 4202, 4205, 4231, 4232, 4315, 4360, 4364, 4365, 4366, 4369, 4371, 4372, 4373, 4400, and 4850 of, to amend and renumber Section 1753 of, to add Sections 1751.1, 1752.2, 1752.6, 3779, and 4023.5 to, to repeal Sections 1752, 2570.8, 3735.3, 3736, 3775.2, 3775.3, 4206, 4363, 4367, 4368, and 4370 of, and to repeal and add Sections 4361 and 4362 of, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, Committee on Business, Professions and Economic Development. Professions and vocations.

Existing law provides for the regulation of various professions, including physicians and surgeons, podiatrists, physician assistants, dentists, dental auxiliaries, nurses, respiratory care practitioners, and pharmacists.

This bill would revise and recast certain provisions regulating these professions.

This bill would specify that the fee for examination for licensure as a registered dental assistant shall not exceed \$50 for the written examination and shall not exceed \$60 for the practical examination and, on and after January 1, 2008, the application fee and fee for issuance of a license for registered orthodontic assistants, registered surgery assistants, registered restorative assistants, and registered dental assistants shall not exceed \$50. The bill would require the Dental Board of California to license a person who meets specified requirements as a registered dental assistant and it would also expand those requirements. The bill would specify that, on and after January 1, 2008, a registered dental assistant may perform specified duties and procedures similar to other dental auxiliaries. The bill would authorize, on and after January 1, 2008, a registered dental assistant in

extended functions to perform all duties and procedures that a registered dental assistant is authorized to perform. The bill would also extend various inoperative and repeal dates relating to dentists and dental auxiliaries.

This bill would require the Division of Medical Quality of the Medical Board of California to organize itself as 2 panels of 7 members. The bill would provide that a podiatric medicine licensee whose renewal fee has been waived cannot practice podiatric medicine unless specified requirements have been satisfied. The bill would require an applicant for a license to practice respiratory care to successfully pass the national respiratory therapist examination. The bill would require a pharmacy to have written policies and procedures for detecting chemical, mental, or physical impairment among licensed individuals employed by or with the pharmacy. The bill would require a pharmacy to report certain information to the California State Board of Pharmacy for the protection of the public. The bill would require the board to operate a pharmacists recovery program to rehabilitate pharmacists and intern pharmacists whose competence may be impaired due to abuse of alcohol, drug use, or mental illness. The bill would establish requirements for this program and require the board to contract with one or more qualified contractors to administer the program. Because the bill would increase fees under the Pharmacy Law that would be deposited into the Pharmacy Board Contingent Fund which is continuously appropriated, the bill would make an appropriation.

The bill would incorporate additional changes to Section 2234.1 of the Business and Professions Code made by this bill and AB 592 to take effect if both bills are enacted and this bill is enacted last.

The bill would incorporate additional changes to Section 4315 of the Business and Professions Code made by this bill and SB 644 to take effect if both bills are enacted and this bill is enacted last.

The bill would incorporate additional changes to Section 4400 of the Business and Professions Code made by this bill and AB 497 to take effect if both bills are enacted and this bill is enacted last.

Because a violation of the bill with respect to podiatrists and pharmacists would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1725 of the Business and Professions Code is amended to read:

1725. The amount of the fees prescribed by this chapter that relate to the licensing of dental auxiliaries shall be established by board resolution and subject to the following limitations:

(a) The application fee for an original license shall not exceed twenty dollars (\$20).

(b) The fee for examination for licensure as a registered dental assistant shall not exceed fifty dollars (\$50) for the written examination and shall not exceed sixty dollars (\$60) for the practical examination. On and after January 1, 2008, the application fee and the fee for issuance of a license as a registered orthodontic assistant, registered surgery assistant, registered restorative assistant, or registered dental assistant shall not exceed fifty dollars (\$50).

(c) The fee for examination for licensure as a registered dental assistant in extended functions or a registered restorative assistant in extended functions shall not exceed two hundred fifty dollars (\$250).

(d) The fee for examination for licensure as a registered dental hygienist shall not exceed two hundred twenty dollars (\$220).

(e) For third- and fourth-year dental students, the fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(f) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed two hundred fifty dollars (\$250).

(g) The board shall establish the fee at an amount not to exceed the actual cost for licensure as a registered dental hygienist in alternative practice.

(h) The biennial renewal fee for a dental auxiliary whose license expires on or after January 1, 1991, shall not exceed sixty dollars (\$60). On or after January 1, 1992, the board may set the renewal fee in an amount not to exceed eighty dollars (\$80).

(i) The delinquency fee shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee.

(j) The fee for issuance of a duplicate registration, license, or certificate to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25).

(k) The fee for each curriculum review and site evaluation for educational programs for registered dental assistants which are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars (\$1,400).

(l) The fee for each review of radiation safety courses or specialty registration courses that are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars (\$300).

(m) No fees or charges other than those listed in subdivisions (a) through (k) above shall be levied by the board in connection with the licensure of dental auxiliaries, registered dental assistants educational program site evaluations and radiation safety course evaluations pursuant to this chapter.

(n) Fees fixed by the board pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(o) Fees collected pursuant to this section shall be deposited in the State Dental Auxiliary Fund.

SEC. 2. Section 1741 of the Business and Professions Code is amended to read:

1741. As used in this article:

(a) "Board" means the Dental Board of California.

(b) "Committee" means the Committee on Dental Auxiliaries.

(c) “Direct supervision” means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(d) “General supervision” means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(e) “Dental auxiliary” means a person who may perform dental assisting or dental hygiene procedures authorized by this article.

SEC. 3. Section 1750 of the Business and Professions Code, as amended by Section 5 of Chapter 667 of the Statutes of 2004, is amended to read:

1750. (a) A dental assistant is a person who may perform basic supportive dental procedures as authorized by this article under the supervision of a licensed dentist and who may perform basic supportive procedures as authorized pursuant to subdivision (b) of Section 1751 under the supervision of a registered dental hygienist in alternative practice.

(b) This section shall become inoperative on December 31, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 1750 of the Business and Professions Code, as added by Section 6 of Chapter 667 of the Statutes of 2004, is amended to read:

1750. (a) A dental assistant is an individual who, without a license, may perform basic supportive dental procedures, as authorized by this article and by regulations adopted by the board, under the supervision of a licensed dentist. “Basic supportive dental procedures” are those procedures that have technically elementary characteristics, are completely reversible, and are unlikely to precipitate potentially hazardous conditions for the patient being treated. These basic supportive dental procedures may be performed under general supervision. These basic supportive dental procedures do not include those procedures authorized in Section 1750.3 or Section 1753.1, or by the board pursuant to Section 1751 for registered assistants.

(b) The supervising licensed dentist shall be responsible for determining the competency of the dental assistant to perform the basic supportive dental procedures authorized pursuant to subdivision (a).

(c) The supervising licensed dentist shall be responsible for assuring that each dental assistant, registered orthodontic assistant, registered surgery assistant, registered restorative assistant, registered restorative assistant in extended functions, registered dental assistant, and registered dental assistant in extended functions, who is in his or her continuous employ for 120 days or more, has completed both of the following within a year of the date of employment:

(1) Board-approved courses in infection control and California law.

(2) A course in basic life support offered by the American Red Cross, the American Heart Association, or any other course approved by the board as equivalent.

(d) Prior to operating radiographic equipment or applying for licensure as a registered dental assistant under Section 1752.5, an auxiliary described in subdivision (c) shall successfully complete a radiation safety course approved by the board.

(e) This section shall become operative on January 1, 2008.

SEC. 5. Section 1750.1 of the Business and Professions Code is amended to read:

1750.1. (a) The practice of dental assisting does not include any of the following procedures:

(1) Diagnosis and comprehensive treatment planning.

(2) Placing, finishing, or removing permanent restorations, except as provided in Section 1753.1.

(3) Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.

(4) Prescribing medication.

(5) Starting or adjusting local or general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other and except as otherwise provided in this article.

(b) This section shall become operative on January 1, 2008.

SEC. 6. Section 1750.2 of the Business and Professions Code is amended to read:

1750.2. (a) On and after January 1, 2008, the board shall license as a “registered orthodontic assistant,” “registered surgery assistant,” or “registered restorative assistant” any person who submits written evidence of satisfactory completion of a course or courses approved by the board pursuant to subdivision (b) that qualifies him or her in one of these specialty areas of practice.

(b) The board shall adopt regulations for the approval of postsecondary specialty registration courses in the specialty areas specified in this section. The board shall also adopt regulations for the approval and recognition of required prerequisite courses and core courses that teach basic dental science, when these courses are taught at secondary institutions, regional occupational centers, or through regional occupational programs.

The regulations shall define the minimum education and training requirements necessary to achieve proficiency in the procedures authorized for each specialty registration, taking into account the combinations of classroom and practical instruction, clinical training, and supervised work experience that are most likely to provide the greatest number of opportunities for improving dental assisting skills efficiently.

(c) The board may approve specialty registration courses referred to in this section prior to January 1, 2008, and the board shall recognize the completion of these approved courses prior to January 1, 2008, but no specialty registrations shall be issued prior to January 1, 2008.

(d) The board may approve a course for the specialty registration listed in subdivision (b) that does not include instruction in coronal polishing.

(e) The board may approve a course that only includes instruction in coronal polishing as specified in paragraph (8) of subdivision (b) of Section 1750.3.

(f) A person who holds a specialty registration pursuant to this section shall be subject to the continuing education requirements established by the board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1715).

SEC. 7. Section 1750.3 of the Business and Professions Code is amended to read:

1750.3. (a) A registered orthodontic assistant may perform all of the following dental procedures, as well as those authorized by board regulations adopted pursuant to Section 1751:

- (1) Any duties that a dental assistant may perform.
- (2) Mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, existing restorations, and missing teeth.
- (3) Placing metal orthodontic separators.
- (4) Placing ligatures and arch wires.
- (5) Taking orthodontic impressions.
- (6) Sizing, fitting, cementing, and removal of orthodontic bands.
- (7) Selecting, prepositioning, curing in a position approved by the supervising dentist, and removal of orthodontic brackets.
- (8) Coronal polishing.
- (9) Preparing teeth for bonding.
- (10) Applying bleaching agents and activating bleaching agents with nonlaser, light-curing devices.
- (11) Removal of excess cement from coronal surfaces of teeth under orthodontic treatment by means of a hand instrument or an ultrasonic scaler.
- (12) Taking facebow transfers and bite registrations for diagnostic models for case study only.

(b) A registered surgery assistant may perform the following dental procedures, as well as those authorized by board regulations adopted pursuant to Section 1751:

- (1) Any duties that a dental assistant may perform.
- (2) Mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, existing restorations, and missing teeth.
- (3) Monitoring of patients during the preoperative, intraoperative, and postoperative phases.

(A) For purposes of this paragraph, patient monitoring includes the following:

- (i) Selection and validation of monitoring sensors, selecting menus and default settings and analysis for electrocardiogram, pulse oximeter and capnograph, continuous blood pressure, pulse, and respiration rates.
- (ii) Interpretation of data from noninvasive patient monitors including readings from continuous blood pressure and

information from the monitor display for electrocardiogram waveform, carbon dioxide and end tidal carbon dioxide concentration, respiratory cycle data, continuous noninvasive blood pressure data, and pulse arterial oxygen saturation measurements, for the purpose of evaluating the condition of the patient during preoperative, intraoperative, and postoperative treatment.

(B) For purposes of this paragraph, patient monitoring does not include the following:

(i) Reading and transmitting information from the monitor display during the intraoperative phase of surgery for electrocardiogram waveform, carbon dioxide and end tidal carbon dioxide concentrations, respiratory cycle data, continuous noninvasive blood pressure data, or pulse arterial oxygen saturation measurements, for the purpose of interpretation and evaluation by a licensed dentist who shall be at chairside during this procedure.

(ii) Placing of sensors.

(4) Taking impressions for surgical splints and occlusal guards.

(5) Placement of surgical dressings .

(6) Adding drugs, medications, and fluids to intravenous lines using a syringe, provided that a licensed dentist is present at the patient's chairside.

(7) Removal of intravenous lines.

(8) Coronal polishing, provided that evidence of satisfactory completion of a board-approved course in this function has been submitted to the board prior to the performance thereof.

(c) A registered restorative assistant may perform all of the following dental procedures, as well as those authorized by board regulations adopted pursuant to Section 1751:

(1) Any duties that a dental assistant may perform.

(2) Mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, existing restorations, and missing teeth.

(3) Sizing, fitting, adjusting, intraorally fabricating, temporarily cementing, and removing temporary crowns and other temporary restorations.

(4) Placing bases and liners on sound dentin.

(5) Removing excess cement from supragingival surfaces of teeth with a hand instrument or an ultrasonic scaler.

(6) Taking facebow transfers and bite registrations for diagnostic models for case study only.

(7) Taking impressions for space-maintaining appliances and occlusal guards.

(8) Coronal polishing.

(9) Applying pit and fissure sealants.

(10) Applying bleaching agents and activating bleaching agents with nonlaser, light-curing devices.

(11) Placement of surgical dressings.

(d) The supervising dentist shall be responsible for determining the level of supervision required for assistants registered pursuant to this section.

(e) This section shall become operative on January 1, 2008.

SEC. 7.1. Section 1751 of the Business and Professions Code, as amended by Section 10 of Chapter 667 of the Statutes of 2004, is amended to read:

1751. (a) By September 15, 1993, the board, upon recommendation of the committee, consistent with this article, standards of good dental practice, and the health and welfare of patients, shall adopt regulations relating to the functions that may be performed by dental assistants under direct or general supervision, and the settings within which dental assistants may work. At least once every seven years thereafter, the board shall review the list of functions performable by dental assistants, the supervision level, and settings under which they may be performed, and shall update the regulations as needed to keep them current with the state of the practice.

(b) Under the supervision of a registered dental hygienist in alternative practice, a dental assistant may perform intraoral retraction and suctioning.

(c) This section shall become inoperative on December 31, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 1751 of the Business and Professions Code, as added by Section 11 of Chapter 667 of the Statutes of 2004, is amended to read:

1751. (a) The board, upon recommendation of the committee, shall adopt regulations governing the procedures that dental assistants, registered orthodontic assistants, registered surgery assistants, registered restorative assistants, registered dental assistants, registered restorative assistants in extended functions, and registered dental assistants in extended functions are authorized to perform consistent with and necessary to implement the provisions of this article, and the settings within which each may practice.

(b) The board shall conduct an initial review of the procedures, supervision level, settings under which they may be performed, and utilization of extended functions dental auxiliaries by January 1, 2012. The board shall submit the results of its review to the Joint Committee on Boards, Commissions, and Consumer Protection. After the initial review, a review shall be conducted at least once every five to seven years thereafter and the board shall update regulations as necessary to keep them current with the state of dental practice.

(c) This section shall become operative on January 1, 2008.

SEC. 9. Section 1751.1 is added to the Business and Professions Code, to read:

1751.1. Notwithstanding any other provision of law, in order to expedite the implementation of the provisions in Chapter 667 of the Statutes of 2004 and Senate Bill 1111 of the 2005-06 Regular Session relating to educational programs and courses for registered orthodontic assistants, registered surgery assistants, registered restorative assistants, registered dental assistants, registered restorative assistants in extended functions, and registered dental assistants in extended functions and to ensure consistency between these provisions, in initially adopting regulations pursuant to Sections 1750.2, 1752.2, 1752.5, 1752.6, 1753 and 1757, the board shall publish a notice of proposed regulatory action for each of the above regulations on the same date in the same year.

SEC. 10. Section 1752 of the Business and Professions Code, as amended by Section 12 of Chapter 667 of the Statutes of 2004, is amended to read:

1752. (a) The supervising licensed dentist shall be responsible for determining the competency of the dental assistant to perform allowable functions.

(b) This section shall become inoperative on December 31, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10.1. Section 1752 of the Business and Professions Code, as added by Section 13 of Chapter 667 of the Statutes of 2004, is amended to read:

1752. (a) A “registered dental assistant in extended functions” is an individual licensed pursuant to this article who may perform basic restorative services and direct patient care, as authorized by Sections 1750, 1750.3, and 1753.1, and by the board regulations adopted pursuant to Section 1751 under the supervision of a licensed dentist.

(b) A “registered restorative assistant in extended functions” is an individual licensed pursuant to this article who may perform basic restorative services and direct patient care, as authorized by Section 1750, subdivision (c) of Section 1750.3, and Section 1753.1, and by board regulations adopted pursuant to Section 1751 under the supervision of a licensed dentist.

(c) This section shall become operative on January 1, 2008.

SEC. 11. Section 1752.2 is added to the Business and Professions Code, to read:

1752.2. (a) A board-approved educational program in registered dental assisting, as provided in subdivisions (a) and (b) of Section 1752.5, is a program that has met the requirements for approval pursuant to board regulations.

(b) An educational program in registered dental assisting that has been approved by the board prior to January 1, 2008, to teach the duties that a registered dental assistant was allowed to perform pursuant to board regulations prior to January 1, 2008, shall continue to be so approved on and after January 1, 2008, if it has certified no later than November 30, 2007, on a form specified by the board, that it shall provide instruction in all duties that registered dental assistants shall be allowed to perform on and after January 1, 2008, with the exception of adding drugs, medications, and fluids to intravenous lines using a syringe.

(c) The board may at any time conduct a thorough evaluation of an approved educational program’s curriculum and facilities to

determine whether the program meets the requirements for approval as specified in board regulations.

SEC. 12. Section 1752 of the Business and Professions Code, as added by Section 13 of Chapter 667 of the Statutes of 2004, is repealed.

SEC. 13. Section 1752.5 of the Business and Professions Code is amended to read:

1752.5. On and after September 1, 2007, a person may apply for and be issued a license as a registered dental assistant upon providing evidence to the board of one of the following:

(a) Successful completion of an educational program in registered dental assisting approved by the board on or after January 1, 2006, to teach all of the functions specified in Section 1750.3.

(b) Successful completion of:

(1) An educational program in registered dental assisting approved by the board to teach the duties that registered dental assistants were allowed to perform pursuant to board regulations prior to January 1, 2008.

(2) A board-approved course or courses in the following duties:

(A) Selecting, repositioning, curing in a position approved by the supervising dentist, and removal of orthodontic brackets.

(B) Monitoring of patients during the preoperative, intraoperative, and postoperative phases.

(i) For purposes of this subparagraph, patient monitoring includes the following:

(I) Selection and validation of monitoring sensors, selecting menus and default settings and analysis for electrocardiogram, pulse oximeter and capnograph, continuous blood pressure, pulse, and respiration rates.

(II) Interpretation of data from noninvasive patient monitors including readings from continuous blood pressure and information from the monitor display for electrocardiogram waveform, carbon dioxide and end tidal carbon dioxide concentration, respiratory cycle data, continuous noninvasive blood pressure data, and pulse arterial oxygen saturation measurements, for the purpose of evaluating the condition of the patient during preoperative, intraoperative, and postoperative treatment.

(ii) For purposes of this subparagraph, patient monitoring does not include the following:

(I) Reading and transmitting information from the monitor display during the intraoperative phase of surgery for electrocardiogram waveform, carbon dioxide and end tidal carbon dioxide concentrations, respiratory cycle data, continuous noninvasive blood pressure data, or pulse arterial oxygen saturation measurements, for the purpose of interpretation and evaluation by a licensed dentist who shall be at chairside during this procedure.

(II) Placing of sensors.

(C) Adding drugs, medications, and fluids to intravenous lines using a syringe.

(D) Applying pit and fissure sealants.

(c) Successful completion of:

(1) Twelve months of satisfactory work experience as a dental assistant in California or another state. The board shall give credit toward the 12 months of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution, regional occupational center, or regional occupation program that are not approved by the board. The credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis not to exceed 16 weeks.

(2) The three board-approved specialty registration courses, as defined in Section 1750.2, for registration as a registered orthodontic assistant, registered surgery assistant, and registered restorative assistant.

(3) A board-approved radiation safety program.

SEC. 14. Section 1752.6 is added to the Business and Professions Code, to read:

1752.6. A registered dental assistant may perform all duties and procedures that a dental assistant, registered orthodontic assistant, registered surgery assistant, and a registered restorative assistant are allowed to perform, as well as those procedures authorized by regulations adopted pursuant to Section 1751, except for the following:

(a) A registered dental assistant who qualifies for licensure under subdivision (a) of Section 1752.5 may only perform the registered surgery assistant duty of adding drugs, medications,

and fluids to intravenous lines after providing evidence of completion of a board-approved course in this duty.

(b) A registered dental assistant licensed on or before July 1, 2008, who qualified for licensure prior to September 1, 2007, may only perform the following duties after the completion of a board-approved course or courses in the following duties:

(1) Selecting, prepositioning, curing in a position approved by the supervising dentist, and removal of orthodontic brackets.

(2) Monitoring of patients during the preoperative, intraoperative, and postoperative phases, using noninvasive instrumentation such as pulse oximeters, electrocardiograms, and capnography.

(3) Adding drugs, medications, and fluids to intravenous lines.

(4) Applying pit and fissure sealants.

(c) The supervising dentist shall be responsible for determining the level of supervision required for authorized procedures performed by registered dental assistants.

(d) This section shall become operative on January 1, 2008.

SEC. 15. Section 1753 of the Business and Professions Code, as amended by Section 15 of Chapter 667 of the Statutes of 2004, is amended and renumbered to read:

1752.1. (a) The board shall license as a registered dental assistant a person who files an application prior to September 1, 2007, and submits written evidence, satisfactory to the board, of either one of the following requirements:

(1) Graduation from an educational program in dental assisting approved by the board, and satisfactory performance on written and practical examinations required by the board.

(2) Satisfactory work experience of more than 12 months as a dental assistant in California or another state and satisfactory performance on a written and practical examination required by the board. The board shall give credit toward the 12 months work experience referred to in this subdivision to persons who have graduated from a dental assisting program in a postsecondary institution approved by the Department of Education or in a secondary institution, regional occupational center, or regional occupational program, that are not, however, approved by the board pursuant to subdivision (a). The credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis not to exceed 16 weeks. The board, in

cooperation with the Superintendent of Public Instruction, shall establish the minimum criteria for the curriculum of nonboard-approved programs. Additionally, the board shall notify those programs only if the program's curriculum does not meet established minimum criteria, as established for board-approved registered dental assistant programs, except any requirement that the program be given in a postsecondary institution. Graduates of programs not meeting established minimum criteria shall not qualify for satisfactory work experience as defined by this section.

(b) In addition to the requirements specified in subdivision (a), each applicant for registered dental assistant licensure on or after July 1, 2002, shall provide evidence of having successfully completed board-approved courses in radiation safety and coronal polishing as a condition of licensure. The length and content of the courses shall be governed by applicable board regulations.

(c) An applicant who fails to pass the written and practical examinations required by this section on or before June 30, 2008, shall not be eligible for further reexamination and must apply for and meet the requirements for registered dental assistant licensure specified in Section 1752.5. Between September 1, 2007, and June 30, 2008, an applicant shall only be allowed to apply to take the written examination two times, and shall only be allowed to apply to take the practical examination two times.

(d) This section shall become inoperative on December 31, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 16. Section 1753 of the Business and Professions Code, as added by Section 16 of Chapter 667 of the Statutes of 2004, is amended to read:

1753. (a) On and after January 1, 2008, the board shall license as a registered dental assistant in extended functions a person who submits written evidence, satisfactory to the board, of all of the following:

(1) Current licensure as a registered dental assistant, or completion of the requirements for licensure as a registered dental assistant, as provided in Section 1752.5.

(2) Successful completion of either of the following:

(A) An extended functions postsecondary program approved by the board in all of the procedures specified in Section 1753.1.

(B) An extended functions postsecondary program approved by the board on or before to teach the duties that registered dental assistants in extended functions were allowed to perform pursuant to board regulations prior to January 1, 2008, and a course approved by the board in the procedures specified in paragraphs (8) through (13) of subdivision (b) of Section 1753.1.

(3) Successful completion of board-approved courses in radiation safety and, within the last two years, courses in infection control, California dental law, and basic life support.

(4) Satisfactory performance on a written examination and a clinical or practical examination specified by the board. The board shall designate whether the written examination shall be administered by the committee or by the board-approved extended functions program.

(b) On and after January 1, 2008, the board shall license as a registered restorative assistant in extended functions a person who submits written evidence, satisfactory to the board, of all of the following:

(1) Completion of 12 months of satisfactory work experience as a dental assistant in California or another state. The board shall give credit toward the 12 months of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution, regional occupational center, or regional occupation program that are not approved by the board. The credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis, not to exceed 16 weeks.

(2) Successful completion of a board-approved course in radiation safety, and, within the last two years, courses in infection control, California dental law, and basic life support.

(3) Successful completion of a postsecondary program approved by the board for restorative dental assisting specialty registration specified in subdivision (c) of Section 1750.3.

(4) Successful completion of an extended functions postsecondary program approved by the board in all of the procedures specified in Section 1753.1.

(5) Satisfactory performance on a written examination and a clinical or practical examination specified by the board. The board shall designate whether the written examination shall be administered by the committee or by the board-approved extended functions program.

(c) In approving extended functions postsecondary programs required to be completed for licensure pursuant to this section, the board shall require that the programs be taught by persons having prior experience teaching the applicable procedures specified in Section 1753.1, or procedures otherwise authorized by the board pursuant to Section 1751, in a dental school approved either by the Commission on Dental Accreditation or a comparable organization approved by the board. Approved programs shall include didactic, laboratory, and clinical modalities.

(d) The board may approve extended functions postsecondary programs referred to in this section prior to January 1, 2008, and the board shall recognize the completion of these approved programs prior to January 1, 2008.

SEC. 17. Section 1753.1 of the Business and Professions Code is amended to read:

1753.1. (a) A registered dental assistant in extended functions licensed on or after January 1, 2008, is authorized to perform all duties and procedures that a registered dental assistant is authorized to perform, and those duties that the board may prescribe by regulation pursuant to Section 1751.

(b) A registered dental assistant in extended functions licensed on or after January 1, 2008, is authorized to perform the following additional procedures under direct supervision and pursuant to the order, control, and full professional responsibility of a licensed dentist:

- (1) Cord retraction of gingivae for impression procedures.
- (2) Taking impressions for cast restorations.
- (3) Formulating indirect patterns for endodontic post and core castings.
- (4) Fitting trial endodontic filling points.
- (5) Drying canals previously opened by the supervising dentist, with absorbent points.
- (6) Testing pulp vitality.

(7) Removing excess cement from subgingival tooth surfaces with a hand instrument.

(8) Fitting and cementing stainless steel crowns.

(9) Placing, condensing, and carving amalgam restorations.

(10) Placing class I, III, and V nonmetallic restorations.

(11) Taking facebow transfers and bite registrations for fixed prostheses.

(12) Taking final impressions for tooth-borne, removable prostheses.

(13) Placing and adjusting permanent crowns for cementation by the dentist.

(14) Applying etchants for bonding restorative materials.

(15) Other procedures authorized by regulations adopted by the board pursuant to Section 1751.

(c) A registered restorative assistant in extended functions licensed on or after January 1, 2008, is authorized to perform all duties and procedures that a registered restorative assistant is authorized to perform, those duties that the board may prescribe by regulation pursuant to Section 1751, and the duties specified in subdivision (b) of this section.

(d) All procedures required to be performed under direct supervision shall be checked and approved by the supervising dentist prior to the patient's dismissal from the office.

SEC. 18. Section 1753.5 of the Business and Professions Code is amended to read:

1753.5. A registered dental assistant may apply pit and fissure sealants under the general supervision of a licensed dentist, after providing evidence to the board of having completed a board-approved course in that procedure.

SEC. 19. Section 1754 of the Business and Professions Code is amended to read:

1754. (a) By September 15, 1993, the board, upon recommendation of the committee and consistent with this article, standards of good dental practice, and the health and welfare of patients, shall adopt regulations relating to the functions which may be performed by registered dental assistants under direct or general supervision, and the settings within which registered dental assistants may work. At least once every seven years thereafter, the board shall review the list of functions performable by registered dental assistants, the supervision level,

and settings under which they may be performed, and shall update the regulations as needed to keep them current with the state of the practice.

(b) This section shall become inoperative on December 31, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 1756 of the Business and Professions Code is amended to read:

1756. (a) The board shall license as a registered dental assistant in extended functions a person who satisfies all of the following requirements:

- (1) Status as a registered dental assistant.
- (2) Completion of clinical training approved by the board in a facility affiliated with a dental school under the direct supervision of the dental school faculty.
- (3) Satisfactory performance on an examination required by the board.

(b) This section shall become inoperative on December 31, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 21. Section 1757 of the Business and Professions Code is amended to read:

1757. (a) Each person who holds a license as a registered dental assistant in extended functions on the effective date of this section may only perform those procedures that a registered dental assistant is allowed to perform as specified in and limited by subdivision (b) of Section 1752.6, and the procedures listed in paragraphs (1), (2), (3), (4), (5), (6), (7), and (14) of subdivision (b) of Section 1753.1, until he or she provides evidence of having completed a board-approved course or courses in the additional procedures specified in paragraphs (8) to (13) of subdivision (b) of Section 1753.1, and an examination in those additional procedures as specified by the board.

(b) This section shall become operative on January 1, 2008.

SEC. 22. Section 1770 of the Business and Professions Code, as amended by Section 23 of Chapter 667 of the Statutes of 2004, is amended to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than two dental auxiliaries in extended functions licensed pursuant to Sections 1756 and 1768.

(b) This section shall become inoperative on December 31, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 23. Section 1770 of the Business and Professions Code, as added by Section 24 of Chapter 667 of the Statutes of 2004, is amended to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than three dental auxiliaries in extended functions licensed pursuant to Sections 1753 and 1768.

(b) This section shall become operative on January 1, 2008.

SEC. 24. Section 2053.5 of the Business and Professions Code is amended to read:

2053.5. (a) Notwithstanding any other provision of law, a person who complies with the requirements of Section 2053.6 shall not be in violation of Section 2051 or 2052 unless that person does any of the following:

(1) Conducts surgery or any other procedure on another person that punctures the skin or harmfully invades the body.

(2) Administers or prescribes X-ray radiation to another person.

(3) Prescribes or administers legend drugs or controlled substances to another person.

(4) Recommends the discontinuance of legend drugs or controlled substances prescribed by an appropriately licensed practitioner.

(5) Willfully diagnoses and treats a physical or mental condition of any person under circumstances or conditions that cause or create a risk of great bodily harm, serious physical or mental illness, or death.

(6) Sets fractures.

(7) Treats lacerations or abrasions through electrotherapy.

(8) Holds out, states, indicates, advertises, or implies to a client or prospective client that he or she is a physician, a surgeon, or a physician and surgeon.

(b) A person who advertises any services that are not unlawful under Section 2051 or 2052 pursuant to subdivision (a) shall disclose in the advertisement that he or she is not licensed by the state as a healing arts practitioner.

SEC. 25. Section 2053.6 of the Business and Professions Code is amended to read:

2053.6. (a) A person who provides services pursuant to Section 2053.5 that are not unlawful under Section 2051 or 2052 shall, prior to providing those services, do the following:

(1) Disclose to the client in a written statement using plain language the following information:

(A) That he or she is not a licensed physician.

(B) That the treatment is alternative or complementary to healing arts services licensed by the state.

(C) That the services to be provided are not licensed by the state.

(D) The nature of the services to be provided.

(E) The theory of treatment upon which the services are based.

(F) His or her educational, training, experience, and other qualifications regarding the services to be provided.

(2) Obtain a written acknowledgment from the client stating that he or she has been provided with the information described in paragraph (1). The client shall be provided with a copy of the written acknowledgement, which shall be maintained by the person providing the service for three years.

(b) The information required by subdivision (a) shall be provided in a language that the client understands.

(c) Nothing in this section or in Section 2053.5 shall be construed to do the following:

(1) Affect the scope of practice of licensed physicians and surgeons.

(2) Limit the right of any person to seek relief for negligence or any other civil remedy against a person providing services subject to the requirements of this section.

SEC. 26. Section 2064 of the Business and Professions Code is amended to read:

2064. Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved medical school, or to prevent a foreign medical student who is enrolled in an approved medical school and clinical training program in this state, or to prevent students enrolled in a program of supervised clinical training under the direction of an approved medical school pursuant to Section 2104, from engaging in the practice of medicine whenever and wherever prescribed as a part of his or her course of study.

SEC. 27. Section 2230 of the Business and Professions Code is amended to read:

2230. (a) All proceedings against a licensee for unprofessional conduct, or against an applicant for licensure for unprofessional conduct or cause, shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) except as provided in this chapter, and shall be prosecuted by the Senior Assistant Attorney General of the Health Quality Enforcement Section.

(b) For the purpose of exercising its disciplinary authority against a physician and surgeon pursuant to this chapter and the Administrative Procedure Act, the Division of Medical Quality shall organize itself as two panels of seven members. Two members of each panel shall be public members. For purposes of this article, “agency itself,” as used in the Administrative Procedure Act, means a panel of the division as described in this subdivision. The decision or order of a panel imposing any disciplinary action pursuant to this chapter and the Administrative Procedure Act shall be final.

SEC. 28. Section 2234.1 of the Business and Professions Code is amended to read:

2234.1. (a) A physician and surgeon shall not be subject to discipline pursuant to subdivision (b), (c), or (d) of Section 2234 solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine if that treatment or advice meets all of the following requirements:

(1) It is provided after informed consent and a good faith prior examination of the patient, and medical indication exists for the treatment or advice, or it is provided for health or well-being.

(2) It is provided after the physician and surgeon has given the patient information concerning conventional treatment and describing the education, experience, and credentials of the physician and surgeon related to the alternative or complementary medicine he or she practices.

(3) It does not cause a delay in or discourage traditional diagnosis of a condition of the patient.

(4) It does not cause death or serious bodily injury to the patient.

(b) For purposes of this section, “alternative or complementary medicine” means those health care methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient’s medical condition that is not outweighed by the risk of the health care method.

SEC. 28.5. Section 2234.1 of the Business and Professions Code is amended to read:

2234.1. (a) A physician and surgeon shall not be subject to discipline pursuant to subdivision (b), (c), or (d) of Section 2234 solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, including the treatment of persistent Lyme Disease, if that treatment or advice meets all of the following requirements:

(1) It is provided after informed consent and a good-faith prior examination of the patient, and medical indication exists for the treatment or advice, or it is provided for health or well-being.

(2) It is provided after the physician and surgeon has given the patient information concerning conventional treatment and describing the education, experience, and credentials of the physician and surgeon related to the alternative or complementary medicine that he or she practices.

(3) In the case of alternative or complementary medicine, it does not cause a delay in, or discourage traditional diagnosis of, a condition of the patient.

(4) It does not cause death or serious bodily injury to the patient.

(b) For purposes of this section, “alternative or complementary medicine,” means those health care methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient’s medical

condition that is not outweighed by the risk of the health care method.

(c) Since the National Institute of Medicine has reported that it can take up to 17 years for a new best practice to reach the average physician and surgeon, it is prudent to give attention to new developments not only in general medical care but in the actual treatment of specific diseases, particularly those that are not yet broadly recognized in California.

SEC. 29. Section 2466 of the Business and Professions Code is amended to read:

2466. All members of the board shall be appointed for terms of four years. Vacancies shall immediately be filled by the appointing power for the unexpired portion of the terms in which they occur. No person shall serve as a member of the board for more than two consecutive terms.

SEC. 30. Section 2472 of the Business and Professions Code is amended to read:

2472. (a) The certificate to practice podiatric medicine authorizes the holder to practice podiatric medicine.

(b) As used in this chapter, "podiatric medicine" means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

(c) A doctor of podiatric medicine may not administer an anesthetic other than local. If an anesthetic other than local is required for any procedure, the anesthetic shall be administered by another licensed health care practitioner who is authorized to administer the required anesthetic within the scope of his or her practice.

(d) (1) A doctor of podiatric medicine who is ankle certified by the board on and after January 1, 1984, may do the following:

(A) Perform surgical treatment of the ankle and tendons at the level of the ankle pursuant to subdivision (e).

(B) Perform services under the direct supervision of a physician and surgeon, as an assistant at surgery, in surgical procedures that are otherwise beyond the scope of practice of a doctor of podiatric medicine.

(C) Perform a partial amputation of the foot no further proximal than the Chopart's joint.

(2) Nothing in this subdivision shall be construed to permit a doctor of podiatric medicine to function as a primary surgeon for any procedure beyond his or her scope of practice.

(e) A doctor of podiatric medicine may perform surgical treatment of the ankle and tendons at the level of the ankle only in the following locations:

(1) A licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(2) A licensed surgical clinic, as defined in Section 1204 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical clinic.

(3) An ambulatory surgical center that is certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical center.

(4) A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1). For purposes of this section, a "freestanding physical plant" means any building that is not physically attached to a building where inpatient services are provided.

(5) An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

(f) A doctor of podiatric medicine shall not perform an admitting history and physical examination of a patient in an acute care hospital where doing so would violate the regulations governing the Medicare program.

(g) A doctor of podiatric medicine licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the

provisions of Section 2290.5 pursuant to subdivision (b) of that section.

SEC. 31. Section 2474 of the Business and Professions Code is amended to read:

2474. Any person who uses in any sign or in any advertisement or otherwise, the word or words “doctor of podiatric medicine,” “doctor of podiatry,” “podiatric doctor,” “D.P.M.,” “podiatrist,” “foot specialist,” or any other term or terms or any letters indicating or implying that he or she is a doctor of podiatric medicine, or that he or she practices podiatric medicine, or holds himself out as practicing podiatric medicine or foot correction as defined in Section 2472, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as provided for in this chapter, is guilty of a misdemeanor.

SEC. 32. Section 2475 of the Business and Professions Code is amended to read:

2475. Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the division. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine has been conferred, who is issued a resident’s license, which may be renewed annually for up to four years for this purpose by the division upon recommendation of the board, and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine whenever and wherever required as a part of that program and may receive compensation for that practice under the following conditions:

(a) A graduate with a resident’s license in an approved internship, residency, or fellowship program may participate in training rotations outside the scope of podiatric medicine, under the supervision of a physician and surgeon who holds a medical doctor or doctor of osteopathy degree wherever and whenever required as a part of the training program, and may receive compensation for that practice. If the graduate fails to receive a

license to practice podiatric medicine under this chapter within three years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.

(b) Hospitals functioning as a part of the teaching program of an approved college or school of podiatric medicine in this state may exchange instructors or resident or assistant resident doctors of podiatric medicine with another approved college or school of podiatric medicine not located in this state, or those hospitals may appoint a graduate of an approved school as such a resident for purposes of postgraduate training. Those instructors and residents may practice and be compensated as provided in this section, but that practice and compensation shall be for a period not to exceed two years.

SEC. 33. Section 2492 of the Business and Professions Code is amended to read:

2492. (a) The board shall examine every applicant for a certificate to practice podiatric medicine to ensure a minimum of entry-level competence at the time and place designated by the board in its discretion, but at least twice a year.

(b) Unless the applicant meets the requirements of Section 2486, applicants shall be required to have taken and passed the examination administered by the National Board of Podiatric Medical Examiners.

(c) The board may appoint qualified persons to give the whole or any portion of any examination as provided in this article, who shall be designated as examination commissioners. The board may fix the compensation of those persons subject to the provisions of applicable state laws and regulations.

(d) The provisions of Article 9 (commencing with Section 2170) shall apply to examinations administered by the board except where those provisions are in conflict with or inconsistent with the provisions of this article. In respect to applicants under this article any references to the "Division of Licensing" or "division" shall be deemed to apply to the board.

SEC. 34. Section 2493 of the Business and Professions Code is amended to read:

2493. (a) An applicant for a certificate to practice podiatric medicine shall pass an examination in the subjects required by

Section 2483 in order to ensure a minimum of entry-level competence.

(b) The board shall require a passing score on the National Board of Podiatric Medical Examiners Part III examination that is consistent with the postgraduate training requirement in Section 2484. The board, as of July 1, 2005, shall require a passing score one standard error of measurement higher than the national passing scale score until such time as the National Board of Podiatric Medical Examiners recommends a higher passing score consistent with Section 2484. In consultation with the Office of Examination Resources of the Department of Consumer Affairs, the board shall ensure that the part III examination adequately evaluates the full scope of practice established by Section 2472, including amputation and other foot and ankle surgical procedures, pursuant to Section 139.

SEC. 35. Section 2498 of the Business and Professions Code is amended to read:

2498. (a) The board shall have the responsibility for reviewing the quality of podiatric medical practice carried out by persons licensed to practice podiatric medicine.

(b) Each member of the board, or any licensed doctor of podiatric medicine appointed by the board, shall additionally have the authority to inspect, or require reports from, a general or specialized hospital and the podiatric medical staff thereof, with respect to the podiatric medical care, services, or facilities provided therein, and may inspect podiatric medical patient records with respect to the care, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the board to any person other than a doctor of podiatric medicine and shall be subject to the restrictions against disclosure described in Section 2263.

SEC. 36. Section 2499.8 of the Business and Professions Code is amended to read:

2499.8. Any licensee who demonstrates to the satisfaction of the board that he or she is unable to practice podiatric medicine due to a disability may request a waiver of the license renewal fee. The granting of a waiver shall be at the discretion of the board and may be terminated at any time. Waivers shall be based on the inability of a licensee to practice podiatric medicine. A

licensee whose renewal fee has been waived pursuant to this section shall not engage in the practice of podiatric medicine unless and until the licensee pays the current renewal fee and does either of the following:

(a) Establishes to the satisfaction of the board, on a form prescribed by the board and signed under penalty of perjury, that the licensee's disability either no longer exists or does not affect his or her ability to practice podiatric medicine safely.

(b) Signs an agreement on a form prescribed by the board, signed under penalty of perjury, in which the licensee agrees to limit his or her practice in the manner prescribed by the reviewing physician.

SEC. 37. Section 2570.8 of the Business and Professions Code is repealed.

SEC. 38. Section 2741 of the Business and Professions Code is amended to read:

2741. An application for reexamination shall be accompanied by the fees prescribed by this chapter.

SEC. 39. Section 3735 of the Business and Professions Code is amended to read:

3735. Except as otherwise provided in this chapter, no applicant shall receive a license under this chapter without first successfully passing the national respiratory therapist examination conducted by those persons, and in the manner and under the rules and regulations, as the board may prescribe.

SEC. 40. Section 3735.3 of the Business and Professions Code is repealed.

SEC. 41. Section 3736 of the Business and Professions Code is repealed.

SEC. 42. Section 3739 of the Business and Professions Code is amended to read:

3739. (a) (1) Except as otherwise provided in this section, every person who has filed an application for licensure with the board may, between the dates specified by the board, perform as a respiratory care practitioner applicant under the direct supervision of a respiratory care practitioner licensed in this state provided he or she has met education requirements for licensure as may be certified by his or her respiratory care program, and if ever attempted, has passed the national respiratory therapist examination.

(2) During this period the applicant shall identify himself or herself only as a “respiratory care practitioner applicant.”

(3) If for any reason the license is not issued, all privileges under this subdivision shall automatically cease on the date specified by the board.

(b) If an applicant fails the national respiratory therapist examination, all privileges under this section shall automatically cease on the date specified by the board.

(c) No applicant for a respiratory care practitioner license shall be authorized to perform as a respiratory care practitioner applicant if cause exists to deny the license.

(d) “Under the direct supervision” means assigned to a respiratory care practitioner who is on duty and immediately available in the assigned patient care area.

SEC. 43. Section 3775.2 of the Business and Professions Code is repealed.

SEC. 44. Section 3775.3 of the Business and Professions Code is repealed.

SEC. 45. Section 3779 is added to the Business and Professions Code, to read:

3779. For purposes of license verification, a person may rely upon the licensing information as it is displayed on the board’s Internet Web site that includes the issuance and expiration dates of any license issued by the board.

SEC. 46. Section 4005 of the Business and Professions Code is amended to read:

4005. (a) The board may adopt rules and regulations, not inconsistent with the laws of this state, as may be necessary for the protection of the public. Included therein shall be the right to adopt rules and regulations as follows: for the proper and more effective enforcement and administration of this chapter; pertaining to the practice of pharmacy; relating to the sanitation of persons and establishments licensed under this chapter; pertaining to establishments wherein any drug or device is compounded, prepared, furnished, or dispensed; providing for standards of minimum equipment for establishments licensed under this chapter; pertaining to the sale of drugs by or through any mechanical device; and relating to pharmacy practice experience necessary for licensure as a pharmacist.

(b) Notwithstanding any provision of this chapter to the contrary, the board may adopt regulations permitting the dispensing of drugs or devices in emergency situations, and permitting dispensing of drugs or devices pursuant to a prescription of a person licensed to prescribe in a state other than California where the person, if licensed in California in the same licensure classification would, under California law, be permitted to prescribe drugs or devices and where the pharmacist has first interviewed the patient to determine the authenticity of the prescription.

(c) The adoption, amendment, or repeal by the board of these or any other board rules or regulations shall be in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 47. Section 4023.5 is added to the Business and Professions Code, to read:

4023.5. For the purposes of this chapter, “direct supervision and control” means that a pharmacist is on the premises at all times and is fully aware of all activities performed by either a pharmacy technician or intern pharmacist.

SEC. 48. Section 4038 of the Business and Professions Code is amended to read:

4038. (a) “Pharmacy technician” means an individual who assists a pharmacist in a pharmacy in the performance of his or her pharmacy related duties, as specified in Section 4115.

(b) A “pharmacy technician trainee” is a person who is enrolled in a pharmacy technician training program operated by a California public postsecondary education institution or by a private postsecondary vocational institution approved by the Bureau for Private Postsecondary and Vocational Education.

SEC. 49. Section 4053 of the Business and Professions Code, as added by Section 7 of Chapter 857 of the Statutes of 2004, is amended to read:

4053. (a) Notwithstanding Section 4051, the board may issue a license as a designated representative to provide sufficient and qualified supervision in a wholesaler or veterinary food-animal drug retailer. The designated representative shall protect the public health and safety in the handling, storage, and shipment of dangerous drugs and dangerous devices in the wholesaler or veterinary food-animal drug retailer.

(b) An individual may apply for a designated representative license. In order to obtain and maintain that license, the individual shall meet all of the following requirements:

(1) He or she shall be a high school graduate or possess a general education development equivalent.

(2) He or she shall have a minimum of one year of paid work experience, in the past three years, related to the distribution or dispensing of dangerous drugs or dangerous devices or meet all of the prerequisites to take the examination required for licensure as a pharmacist by the board.

(3) He or she shall complete a training program approved by the board that, at a minimum, addresses each of the following subjects:

(A) Knowledge and understanding of California law and federal law relating to the distribution of dangerous drugs and dangerous devices.

(B) Knowledge and understanding of California law and federal law relating to the distribution of controlled substances.

(C) Knowledge and understanding of quality control systems.

(D) Knowledge and understanding of the United States Pharmacopoeia standards relating to the safe storage and handling of drugs.

(E) Knowledge and understanding of prescription terminology, abbreviations, dosages and format.

(4) The board may, by regulation, require training programs to include additional material.

(5) The board may not issue a license as a designated representative until the applicant provides proof of completion of the required training to the board.

(c) The veterinary food-animal drug retailer or wholesaler shall not operate without a pharmacist or a designated representative on its premises.

(d) Only a pharmacist or a designated representative shall prepare and affix the label to veterinary food-animal drugs.

(e) Section 4051 shall not apply to any laboratory licensed under Section 351 of Title III of the Public Health Service Act (Public Law 78-410).

SEC. 50. Section 4104 of the Business and Professions Code is amended to read:

4104. (a) Every pharmacy shall have in place procedures for taking action to protect the public when a licensed individual employed by or with the pharmacy is discovered or known to be chemically, mentally, or physically impaired to the extent it affects his or her ability to practice the profession or occupation authorized by his or her license, or is discovered or known to have engaged in the theft, diversion, or self-use of dangerous drugs.

(b) Every pharmacy shall have written policies and procedures for detecting chemical, mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy.

(c) Every pharmacy shall report to the board, within 30 days of the receipt or development of the following information with regard to any licensed individual employed by or with the pharmacy:

(1) Any admission by a licensed individual of chemical, mental, or physical impairment affecting his or her ability to practice.

(2) Any admission by a licensed individual of theft, diversion, or self-use of dangerous drugs.

(3) Any video or documentary evidence demonstrating chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(4) Any video or documentary evidence demonstrating theft, diversion, or self-use of dangerous drugs by a licensed individual.

(5) Any termination based on chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(6) Any termination of a licensed individual based on theft, diversion, or self-use of dangerous drugs.

(d) Anyone participating in good faith in the making of a report authorized or required by this section shall have immunity from any liability, civil or criminal, that might otherwise arise from the making of the report. Any participant shall have the same immunity with respect to participation in any administrative or judicial proceeding resulting from the report.

SEC. 51. Section 4106 of the Business and Professions Code is amended to read:

4106. For purposes of license verification, a person may rely upon the licensing information as it is displayed on the board's Internet Web site that includes the issuance and expiration dates of any license issued by the board.

SEC. 52. Section 4114 of the Business and Professions Code is amended to read:

4114. (a) An intern pharmacist may perform all functions of a pharmacist at the discretion of and under the direct supervision and control of a pharmacist whose license is in good standing with the board.

(b) A pharmacist may not supervise more than two intern pharmacists at any one time.

SEC. 53. Section 4115 of the Business and Professions Code is amended to read:

4115. (a) A pharmacy technician may perform packaging, manipulative, repetitive, or other nondiscretionary tasks, only while assisting, and while under the direct supervision and control of a pharmacist.

(b) This section does not authorize the performance of any tasks specified in subdivision (a) by a pharmacy technician without a pharmacist on duty.

(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.

(d) The board shall adopt regulations to specify tasks pursuant to subdivision (a) that a pharmacy technician may perform under the supervision of a pharmacist. Any pharmacy that employs a pharmacy technician shall do so in conformity with the regulations adopted by the board.

(e) No person shall act as a pharmacy technician without first being licensed by the board as a pharmacy technician.

(f) (1) A pharmacy with only one pharmacist shall have no more than one pharmacy technician performing the tasks specified in subdivision (a). The ratio of pharmacy technicians performing the tasks specified in subdivision (a) to any additional pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117. This ratio is applicable to all practice settings, except for an inpatient of a licensed health facility, a patient of a licensed home health agency, as specified in

paragraph (2), an inmate of a correctional facility of the Department of the Youth Authority or the Department of Corrections, and for a person receiving treatment in a facility operated by the State Department of Mental Health, the State Department of Developmental Services, or the Department of Veterans Affairs.

(2) The board may adopt regulations establishing the ratio of pharmacy technicians performing the tasks specified in subdivision (a) to pharmacists applicable to the filling of prescriptions of an inpatient of a licensed health facility and for a patient of a licensed home health agency. Any ratio established by the board pursuant to this subdivision shall allow, at a minimum, at least one pharmacy technician for a single pharmacist in a pharmacy and two pharmacy technicians for each additional pharmacist, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117.

(3) A pharmacist scheduled to supervise a second pharmacy technician may refuse to supervise a second pharmacy technician if the pharmacist determines, in the exercise of his or her professional judgment, that permitting the second pharmacy technician to be on duty would interfere with the effective performance of the pharmacist's responsibilities under this chapter. A pharmacist assigned to supervise a second pharmacy technician shall notify the pharmacist in charge in writing of his or her determination, specifying the circumstances of concern with respect to the pharmacy or the pharmacy technician that have led to the determination, within a reasonable period, but not to exceed 24 hours, after the posting of the relevant schedule. No entity employing a pharmacist may discharge, discipline, or otherwise discriminate against any pharmacist in the terms and conditions of employment for exercising or attempting to exercise in good faith the right established pursuant to this paragraph.

(g) Notwithstanding subdivisions (a) and (b), the board shall by regulation establish conditions to permit the temporary absence of a pharmacist for breaks and lunch periods pursuant to Section 512 of the Labor Code and the orders of the Industrial Welfare Commission without closing the pharmacy. During these temporary absences, a pharmacy technician may, at the discretion

of the pharmacist, remain in the pharmacy but may only perform nondiscretionary tasks. The pharmacist shall be responsible for a pharmacy technician and shall review any task performed by a pharmacy technician during the pharmacist's temporary absence. Nothing in this subdivision shall be construed to authorize a pharmacist to supervise pharmacy technicians in greater ratios than those described in subdivision (f).

(h) The pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician supervised by that pharmacist.

SEC. 54. Section 4115.5 of the Business and Professions Code is amended to read:

4115.5. (a) Notwithstanding any other provision of law, a pharmacy technician trainee may be placed in a pharmacy to complete an externship for the purpose of obtaining practical training required to become licensed as a pharmacy technician.

(b) (1) A pharmacy technician trainee participating in an externship as described in subdivision (a) may perform the duties described in subdivision (a) of Section 4115 only under the direct supervision and control of a pharmacist.

(2) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall be directly responsible for the conduct of the trainee.

(3) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall verify any prescription prepared by the trainee under supervision of the pharmacist by initialing the prescription label before the medication is disbursed to a patient or by engaging in other verification procedures that are specifically approved by board regulations.

(4) A pharmacist may only supervise one pharmacy technician trainee at any given time.

(5) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall certify attendance for the pharmacy technician trainee and certify that the pharmacy technician trainee has met the educational objectives established by a California public postsecondary education institution or the private postsecondary vocational institution in which the trainee is enrolled, as established by the institution.

(c) (1) Except as described in paragraph (2), an externship in which a pharmacy technician trainee is participating as described in subdivision (a) shall be for a period of no more than 120 hours.

(2) When an externship in which a pharmacy technician trainee is participating as described in subdivision (a) involves rotation between a community and hospital pharmacy for the purpose of training the student in distinct practice settings, the externship may be for a period of up to 320 hours. No more than 120 of the 320 hours may be completed in a community pharmacy setting or in a single department in a hospital pharmacy.

(d) An externship in which a pharmacy technician trainee may participate as described in subdivision (a) shall be for a period of no more than six consecutive months in a community pharmacy and for a total of no more than 12 months if the externship involves rotation between a community and hospital pharmacy. The externship shall be completed while the trainee is enrolled in a course of instruction at the institution.

(e) A pharmacy technician trainee participating in an externship as described in subdivision (a) shall wear identification that indicates his or her trainee status.

SEC. 55. Section 4127.5 of the Business and Professions Code is amended to read:

4127.5. The fee for the issuance of a nongovernmental license, or renewal of a license, to compound sterile drug products shall be five hundred dollars (\$500) and may be increased to six hundred dollars (\$600).

SEC. 56. Section 4161 of the Business and Professions Code, as added by Section 4.5 of Chapter 887 of the Statutes of 2004, is amended to read:

4161. (a) A person located outside this state that ships, mails, or delivers dangerous drugs or dangerous devices into this state shall be considered a nonresident wholesaler.

(b) A nonresident wholesaler shall be licensed by the board prior to shipping, mailing, or delivering dangerous drugs or dangerous devices to a site located in this state.

(c) A separate license shall be required for each place of business owned or operated by a nonresident wholesaler from or through which dangerous drugs or dangerous devices are

shipped, mailed, or delivered to a site located in this state. A license shall be renewed annually and shall not be transferable.

(d) The following information shall be reported, in writing, to the board at the time of initial application for licensure by a nonresident wholesaler, on renewal of a nonresident wholesaler license, or within 30 days of a change in that information:

- (1) Its agent for service of process in this state.
- (2) Its principal corporate officers, as specified by the board, if any.
- (3) Its general partners, as specified by the board, if any.
- (4) Its owners if the applicant is not a corporation or partnership.

(e) A report containing the information in subdivision (d) shall be made within 30 days of any change of ownership, office, corporate officer, or partner.

(f) A nonresident wholesaler shall comply with all directions and requests for information from the regulatory or licensing agency of the state in which it is licensed, as well as with all requests for information made by the board.

(g) A nonresident wholesaler shall maintain records of dangerous drugs and dangerous devices sold, traded, or transferred to persons in this state, so that the records are in a readily retrievable form.

(h) A nonresident wholesaler shall at all times maintain a valid, unexpired license, permit, or registration to conduct the business of the wholesaler in compliance with the laws of the state in which it is a resident. An application for a nonresident wholesaler license in this state shall include a license verification from the licensing authority in the applicant's state of residence.

(i) The board may not issue or renew a nonresident wholesaler license until the nonresident wholesaler identifies a designated representative-in-charge and notifies the board in writing of the identity and license number of the designated representative-in-charge.

(j) The designated representative-in-charge shall be responsible for the nonresident wholesaler's compliance with state and federal laws governing wholesalers. A nonresident wholesaler shall identify and notify the board of a new designated representative-in-charge within 30 days of the date

that the prior designated representative-in-charge ceases to be the designated representative-in-charge.

(k) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be fixed by the board at an amount not to exceed the annual fee for renewal of a license to conduct business as a nonresident wholesaler.

(l) The registration fee shall be the fee specified in subdivision (f) of Section 4400.

SEC. 57. Section 4202 of the Business and Professions Code is amended to read:

4202. (a) The board may issue a pharmacy technician license to an individual if he or she is a high school graduate or possesses a general educational development certificate equivalent, and meets any one of the following requirements:

(1) Has obtained an associate's degree in pharmacy technology.

(2) Has completed a course of training specified by the board.

(3) Has graduated from a school of pharmacy recognized by the board.

(4) Is certified by the Pharmacy Technician Certification Board.

(b) The board shall adopt regulations pursuant to this section for the licensure of pharmacy technicians and for the specification of training courses as set out in paragraph (2) of subdivision (a). Proof of the qualifications of any applicant for licensure as a pharmacy technician shall be made to the satisfaction of the board and shall be substantiated by any evidence required by the board.

(c) The board shall conduct a criminal background check of the applicant to determine if an applicant has committed acts that would constitute grounds for denial of licensure, pursuant to this chapter or Chapter 2 (commencing with Section 480) of Division 1.5.

(d) The board may suspend or revoke a license issued pursuant to this section on any ground specified in Section 4301.

(e) Once licensed as a pharmacist, the pharmacy technician registration is no longer valid and the pharmacy technician license shall be returned to the board within 15 days.

SEC. 58. Section 4205 of the Business and Professions Code is amended to read:

4205. (a) A license issued pursuant to Section 4110, 4120, 4160, or 4161 shall be considered a license within the meaning of Section 4141.

(b) The board may, in its discretion, issue a license to any person authorizing the sale and dispensing of hypodermic syringes and needles for animal use.

(c) The application for a license shall be made in writing on a form to be furnished by the board. The board may require any information as the board deems reasonably necessary to carry out the purposes of Article 9 (commencing with Section 4140) of this chapter.

(d) A separate license shall be required for each of the premises of any person who sells or dispenses hypodermic syringes or needles at more than one location.

(e) A license shall be renewed annually and shall not be transferable.

(f) The board may deny, revoke, or suspend any license issued pursuant to this article for any violation of this chapter.

SEC. 59. Section 4206 of the Business and Professions Code is repealed.

SEC. 60. Section 4231 of the Business and Professions Code is amended to read:

4231. (a) The board shall not renew a pharmacist license unless the applicant submits proof satisfactory to the board that he or she has successfully completed 30 hours of approved courses of continuing pharmacy education during the two years preceding the application for renewal.

(b) Notwithstanding subdivision (a), the board shall not require completion of continuing education for the first renewal of a pharmacist license.

(c) If an applicant for renewal of a pharmacist license submits the renewal application and payment of the renewal fee but does not submit proof satisfactory to the board that the licensee has completed 30 hours of continuing pharmacy education, the board shall not renew the license and shall issue the applicant an inactive pharmacist license. A licensee with an inactive pharmacist license issued pursuant to this section may obtain an active pharmacist license by paying the renewal fees due and

submitting satisfactory proof to the board that the licensee has completed 30 hours of continuing pharmacy education.

SEC. 61. Section 4232 of the Business and Professions Code is amended to read:

4232. (a) The courses shall be in the form of postgraduate studies, institutes, seminars, lectures, conferences, workshops, extension studies, correspondence courses, and other similar methods of conveying continuing professional pharmacy education.

(b) The subject matter shall be pertinent to the socioeconomic and legal aspects of health care, the properties and actions of drugs and dosage forms and the etiology, and characteristics and therapeutics of the disease state.

(c) The subject matter of the courses may include, but shall not be limited to, the following: pharmacology, biochemistry, physiology, pharmaceutical chemistry, pharmacy administration, pharmacy jurisprudence, public health and communicable diseases, professional practice management, anatomy, histology, and any other subject matter as represented in curricula of accredited colleges of pharmacy.

SEC. 62. Section 4315 of the Business and Professions Code is amended to read:

4315. (a) The executive officer, or his or her designee, may issue a letter of admonishment to a licensee for failure to comply with this chapter or regulations adopted pursuant to this chapter, directing the licensee to come into compliance.

(b) The letter of admonishment shall be in writing and shall describe in detail the nature and facts of the violation, including a reference to the statutes or regulations violated.

(c) The letter of admonishment shall inform the licensee that within 30 days of service of the order of admonishment the licensee may do either of the following:

(1) Submit a written request for an office conference to the executive officer of the board to contest the letter of admonishment.

(A) Upon a timely request, the executive officer, or his or her designee, shall hold an office conference with the licensee or the licensee's legal counsel or authorized representative. Unless so authorized by the executive officer, or his or her designee, no individual other than the legal counsel or authorized

representative of the licensee may accompany the licensee to the office conference.

(B) Prior to or at the office conference the licensee may submit to the executive officer declarations and documents pertinent to the subject matter of the letter of admonishment.

(C) The office conference is intended to be an informal proceeding and shall not be subject to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(D) The executive officer, or his or her designee, may affirm, modify, or withdraw the letter of admonishment. Within 14 calendar days from the date of the office conference, the executive officer, or his or her designee, shall personally serve or send by certified mail to the licensee's address of record with the board a written decision. This decision shall be deemed the final administrative decision concerning the letter of admonishment.

(E) Judicial review of the decision may be had by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 30 days of the date the decision was personally served or sent by certified mail. The judicial review shall extend to the question of whether or not there was a prejudicial abuse of discretion in the issuance of the letter of admonishment.

(2) Comply with the letter of admonishment and submit a written corrective action plan to the executive officer documenting compliance. If an office conference is not requested pursuant to this section, compliance with the letter of admonishment shall not constitute an admission of the violation noted in the letter of admonishment.

(d) The letter of admonishment shall be served upon the licensee personally or by certified mail at the licensee's address of record with the board. If the licensee is served by certified mail, service shall be effective upon deposit in the United States mail.

(e) The licensee shall maintain and have readily available a copy of the letter of admonishment and corrective action plan, if

any, for at least three years from the date of issuance of the letter of admonishment.

(f) Nothing in this section shall in any way limit the board's authority or ability to do either of the following:

(1) Issue a citation pursuant to Section 125.9, 148, or 4067 or pursuant to Section 1775, 1775.15, 1777, or 1778 of Title 16 of the California Code of Regulations.

(2) Institute disciplinary proceedings pursuant to Article 19 (commencing with Section 4300).

SEC. 62.5. Section 4315 of the Business and Professions Code is amended to read:

4315. (a) The executive officer, or his or her designee, may issue a letter of admonishment to a licensee for failure to comply with Section 733 or for failure to comply with this chapter or regulations adopted pursuant to this chapter, directing the licensee to come into compliance.

(b) The letter of admonishment shall be in writing and shall describe in detail the nature and facts of the violation, including a reference to the statutes or regulations violated.

(c) The letter of admonishment shall inform the licensee that within 30 days of service of the order of admonishment the licensee may do either of the following:

(1) Submit a written request for an office conference to the executive officer of the board to contest the letter of admonishment.

(A) Upon a timely request, the executive officer, or his or her designee, shall hold an office conference with the licensee or the licensee's legal counsel or authorized representative. Unless so authorized by the executive officer, or his or her designee, no individual other than the legal counsel or authorized representative of the licensee may accompany the licensee to the office conference.

(B) Prior to or at the office conference, the licensee may submit to the executive officer declarations and documents pertinent to the subject matter of the letter of admonishment.

(C) The office conference is intended to be an informal proceeding and shall not be subject to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5

(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(D) The executive officer, or his or her designee, may affirm, modify, or withdraw the letter of admonishment. Within 14 calendar days from the date of the office conference, the executive officer, or his or her designee, shall personally serve or send by certified mail to the licensee's address of record with the board a written decision. This decision shall be deemed the final administrative decision concerning the letter of admonishment.

(E) Judicial review of the decision may be had by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 30 days of the date the decision was personally served or sent by certified mail. The judicial review shall extend to the question of whether or not there was a prejudicial abuse of discretion in the issuance of the letter of admonishment.

(2) Comply with the letter of admonishment and submit a written corrective action plan to the executive officer documenting compliance. If an office conference is not requested pursuant to this section, compliance with the letter of admonishment shall not constitute an admission of the violation noted in the letter of admonishment.

(d) The letter of admonishment shall be served upon the licensee personally or by certified mail at the licensee's address of record with the board. If the licensee is served by certified mail, service shall be effective upon deposit in the United States mail.

(e) The licensee shall maintain and have readily available a copy of the letter of admonishment and corrective action plan, if any, for at least three years from the date of issuance of the letter of admonishment.

(f) Nothing in this section shall in any way limit the board's authority or ability to do either of the following:

(1) Issue a citation pursuant to Section 125.9, 148, or 4067 or pursuant to Section 1775 of Title 16 of the California Code of Regulations.

(2) Institute disciplinary proceedings pursuant to Article 19 (commencing with Section 4300).

SEC. 63. Section 4360 of the Business and Professions Code is amended to read:

4360. The board shall operate a pharmacists recovery program to rehabilitate pharmacists and intern pharmacists whose competency may be impaired due to abuse of alcohol, drug use, or mental illness. The intent of the pharmacists recovery program is to return these pharmacists and intern pharmacists to the practice of pharmacy in a manner that will not endanger the public health and safety.

SEC. 64. Section 4361 of the Business and Professions Code is repealed.

SEC. 65. Section 4361 is added to the Business and Professions Code, to read:

4361. (a) “Participant” means a pharmacist or intern pharmacist who has entered the pharmacists recovery program.

(b) “Pharmacists recovery program” means the rehabilitation program created by this article for pharmacists and intern pharmacists.

SEC. 66. Section 4362 of the Business and Professions Code is repealed.

SEC. 67. Section 4362 is added to the Business and Professions Code, to read:

4362. (a) A pharmacist or intern pharmacist may enter the pharmacists recovery program if:

(1) The pharmacist or intern pharmacist is referred by the board instead of, or in addition to, other means of disciplinary action.

(2) The pharmacist or intern pharmacist voluntarily elects to enter the pharmacists recovery program.

(b) A pharmacist or intern pharmacist who enters the pharmacists recovery program pursuant to paragraph (2) of subdivision (a) shall not be subject to discipline or other enforcement action by the board solely on his or her entry into the pharmacists recovery program or on information obtained from the pharmacist or intern pharmacist while participating in the program unless the pharmacist or intern pharmacist would pose a threat to the health and safety of the public. However, if the board receives information regarding the conduct of the pharmacist or intern pharmacist, that information may serve as a basis for discipline or other enforcement by the board.

SEC. 68. Section 4363 of the Business and Professions Code is repealed.

SEC. 69. Section 4364 of the Business and Professions Code is amended to read:

4364. (a) The board shall establish criteria for the participation of pharmacists and intern pharmacists in the pharmacists recovery program.

(b) The board may deny a pharmacist or intern pharmacist who fails to meet the criteria for participation entry into the pharmacists recovery program.

(c) The establishment of criteria for participation in the pharmacists recovery program shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 70. Section 4365 of the Business and Professions Code is amended to read:

4365. The board shall contract with one or more qualified contractors to administer the pharmacists recovery program.

SEC. 71. Section 4366 of the Business and Professions Code is amended to read:

4366. The functions of the contractor administering the pharmacists recovery program shall include, but not be limited to, the following:

(a) To evaluate those pharmacists and intern pharmacists who request participation in the program.

(b) To develop a treatment contract with each participant in the pharmacists recovery program.

(c) To monitor the compliance of each participant with their treatment contract.

(d) To prepare reports as required by the board.

(e) To inform each participant of the procedures followed in the program.

(f) To inform each participant of their rights and responsibilities in the program.

(g) To inform each participant of the possible consequences of noncompliance with the program.

SEC. 72. Section 4367 of the Business and Professions Code is repealed.

SEC. 73. Section 4368 of the Business and Professions Code is repealed.

SEC. 74. Section 4369 of the Business and Professions Code is amended to read:

4369. (a) Any failure to comply with the treatment contract, determination that the participant is failing to derive benefit from the program, or other requirements of the pharmacists recovery program may result in the termination of the pharmacist's or intern pharmacist's participation in the pharmacists recovery program. The name and license number of a pharmacist or intern pharmacist who is terminated from the pharmacists recovery program and the basis for the termination shall be reported to the board.

(b) Participation in the pharmacists recovery program shall not be a defense to any disciplinary action that may be taken by the board.

(c) No provision of this article shall preclude the board from commencing disciplinary action against a licensee who is terminated from the pharmacists recovery program.

SEC. 75. Section 4370 of the Business and Professions Code is repealed.

SEC. 76. Section 4371 of the Business and Professions Code is amended to read:

4371. The board shall review the pharmacists recovery program on a quarterly basis. As part of this evaluation, the board shall review files of all participants in the pharmacists recovery program.

SEC. 77. Section 4372 of the Business and Professions Code is amended to read:

4372. All board records and records of the pharmacists recovery program pertaining to the treatment of a pharmacist or intern pharmacist in the program shall be kept confidential and are not subject to discovery, subpoena, or disclosure pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. However, board records and records of the pharmacists recovery program may be disclosed and testimony provided in connection with participation in the pharmacists recovery program, but only to the extent those records or testimony are relevant to the conduct for which the pharmacist or intern pharmacist was terminated from the pharmacists recovery program.

SEC. 78. Section 4373 of the Business and Professions Code is amended to read:

4373. No member of the board shall be liable for any civil damages because of acts or omissions that may occur while acting in good faith pursuant to this article.

SEC. 79. Section 4400 of the Business and Professions Code, as added by Section 50 of Chapter 857 of the Statutes of 2004, is amended to read:

4400. The amount of fees and penalties prescribed by this chapter, except as otherwise provided is that fixed by the board according to the following schedule:

(a) The fee for a nongovernmental pharmacy license shall be three hundred forty dollars (\$340) and may be increased to four hundred dollars (\$400).

(b) The fee for a nongovernmental pharmacy annual renewal shall be one hundred seventy-five dollars (\$175) and may be increased to two hundred fifty dollars (\$250).

(c) The fee for the pharmacist application and examination shall be one hundred fifty-five dollars (\$155) and may be increased to one hundred eighty-five dollars (\$185).

(d) The fee for regrading an examination shall be seventy-five dollars (\$75) and may be increased to eighty-five dollars (\$85). If an error in grading is found and the applicant passes the examination, the regrading fee shall be refunded.

(e) The fee for a pharmacist license and biennial renewal shall be one hundred fifteen dollars (\$115) and may be increased to one hundred fifty dollars (\$150).

(f) The fee for a nongovernmental wholesaler license and annual renewal shall be five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600).

(g) The fee for a hypodermic license and renewal shall be ninety dollars (\$90) and may be increased to one hundred twenty-five dollars (\$125).

(h) (1) The fee for application, investigation, and issuance of a license as a designated representative pursuant to Section 4053 shall be one hundred eighty-five dollars (\$185) and may be increased to two hundred fifty dollars (\$250). If the applicant is not issued a license as a designated representative, the board shall refund one hundred ten dollars (\$110) of the fee.

(2) The fee for the annual renewal of a license as a designated representative shall be one hundred ten dollars (\$110) and may be increased to one hundred fifty dollars (\$150).

(i) (1) The fee for the application, investigation, and issuance of a license as a designated representative for a veterinary food-animal drug retailer pursuant to Section 4053 shall be two hundred fifty dollars (\$250). If the applicant is not issued a license as a designated representative, the board shall refund one hundred fifty dollars (\$150) of the fee.

(2) The fee for the annual renewal of a license as a designated representative for a veterinary food-animal drug retailer shall be one hundred ten dollars (\$110).

(j) The fee for a nonresident wholesaler's license and annual renewal issued pursuant to Section 4120 shall be five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600).

(k) The fee for evaluation of continuing education courses for accreditation shall be set by the board at an amount not to exceed forty dollars (\$40) per course hour.

(l) The fee for an intern pharmacist license shall be sixty-five dollars (\$65) and may be increased to seventy-five dollars (\$75). The fee for transfer of intern hours or verification of licensure to another state shall be fixed by the board not to exceed twenty dollars (\$20).

(m) The board may waive or refund the additional fee for the issuance of a certificate where the certificate is issued less than 45 days before the next regular renewal date.

(n) The fee for the reissuance of any license, or renewal thereof, that has been lost or destroyed or reissued due to a name change is thirty dollars (\$30).

(o) The fee for the reissuance of any license, or renewal thereof, that must be reissued because of a change in the information, is sixty dollars (\$60) and may be increased to one hundred dollars (\$100).

(p) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Pharmacy Board Contingent Fund equal to approximately one year's operating expenditures.

(q) The fee for any applicant for a nongovernmental clinic permit is three hundred forty dollars (\$340) and may be increased to four hundred dollars (\$400) for each permit. The annual fee for renewal of the permit is one hundred seventy-five dollars

(\$175) and may be increased to two hundred fifty dollars (\$250) for each permit.

(r) The board shall charge a fee for the processing and issuance of a license to a pharmacy technician and a separate fee for the biennial renewal of the license. The license fee shall be twenty-five dollars (\$25) and may be increased to fifty dollars (\$50). The biennial renewal fee shall be twenty-five dollars (\$25) and may be increased to fifty dollars (\$50).

(s) The fee for a veterinary food-animal drug retailer license shall be four hundred dollars (\$400). The annual renewal fee for a veterinary food-animal drug retailer shall be two hundred fifty dollars (\$250).

(t) The fee for issuance of a retired license pursuant to Section 4200.5 shall be thirty dollars (\$30).

SEC. 79.5. Section 4400 of the Business and Professions Code, as added by Section 50 of Chapter 857 of the Statutes of 2004, is amended to read:

4400. The amount of fees and penalties prescribed by this chapter, except as otherwise provided is that fixed by the board according to the following schedule:

(a) The fee for a nongovernmental pharmacy license shall be three hundred forty dollars (\$340) and may be increased to four hundred dollars (\$400).

(b) The fee for a nongovernmental pharmacy annual renewal shall be one hundred seventy-five dollars (\$175) and may be increased to two hundred fifty dollars (\$250).

(c) The fee for the pharmacist application and examination shall be one hundred fifty-five dollars (\$155) and may be increased to one hundred eighty-five dollars (\$185).

(d) The fee for regrading an examination shall be seventy-five dollars (\$75) and may be increased to eighty-five dollars (\$85). If an error in grading is found and the applicant passes the examination, the regrading fee shall be refunded.

(e) The fee for a pharmacist license and biennial renewal shall be one hundred fifteen dollars (\$115) and may be increased to one hundred fifty dollars (\$150).

(f) The fee for a nongovernmental wholesaler license and annual renewal shall be five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600), except as provided in subdivision (j).

(g) The fee for a hypodermic license and renewal shall be ninety dollars (\$90) and may be increased to one hundred twenty-five dollars (\$125).

(h) (1) The fee for application, investigation, and issuance of license as a designated representative pursuant to Section 4053 shall be one hundred eighty-five dollars (\$185) and may be increased to two hundred fifty dollars (\$250). If the applicant is not issued a license as a designated representative, the board shall refund one hundred ten dollars (\$110) of the fee.

(2) The fee for the annual renewal of a license as a designated representative shall be one hundred ten dollars (\$110) and may be increased to one hundred fifty dollars (\$150).

(i) (1) The fee for the application, investigation, and issuance of a license as a designated representative for a veterinary food-animal drug retailer pursuant to Section 4053 shall be two hundred fifty dollars (\$250). If the applicant is not issued a license as a designated representative, the board shall refund one hundred fifty dollars (\$150) of the fee.

(2) The fee for the annual renewal of a license as a designated representative for a veterinary food-animal drug retailer shall be one hundred ten dollars (\$110).

(j) (1) The application fee for a nonresident wholesaler's license issued pursuant to Section 4161 shall be five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600).

(2) For nonresident wholesalers who have 21 or more wholesaler facilities operating nationwide the application fees for the first 20 locations shall be five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600). The application fee for any additional location after licensure of the first 20 locations shall be two hundred twenty-five dollars (\$225) and may be increased to three hundred dollars (\$300).

(3) The annual renewal fee for a nonresident wholesaler's license issued pursuant to Section 4161 shall be five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600).

(k) The fee for evaluation of continuing education courses for accreditation shall be set by the board at an amount not to exceed forty dollars (\$40) per course hour.

(l) The fee for an intern pharmacist license shall be sixty-five dollars (\$65) and may be increased to seventy-five dollars (\$75). The fee for transfer of intern hours or verification of licensure to another state shall be fixed by the board not to exceed twenty dollars (\$20).

(m) The board may waive or refund the additional fee for the issuance of a certificate where the certificate is issued less than 45 days before the next regular renewal date.

(n) The fee for the reissuance of any license, or renewal thereof, that has been lost or destroyed or reissued due to a name change is thirty dollars (\$30).

(o) The fee for the reissuance of any license, or renewal thereof, that must be reissued because of a change in the information, is sixty dollars (\$60) and may be increased to one hundred dollars (\$100).

(p) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Pharmacy Board Contingent Fund equal to approximately one year's operating expenditures.

(q) The fee for any applicant for a nongovernmental clinic permit is three hundred forty dollars (\$340) and may be increased to four hundred dollars (\$400) for each permit. The annual fee for renewal of the permit is one hundred seventy-five dollars (\$175) and may be increased to two hundred fifty dollars (\$250) for each permit.

(r) The board shall charge a fee for the processing and issuance of a license to a pharmacy technician and a separate fee for the biennial renewal of the license. The license fee shall be twenty-five dollars (\$25) and may be increased to fifty dollars (\$50). The biennial renewal fee shall be twenty-five dollars (\$25) and may be increased to fifty dollars (\$50).

(s) The fee for a veterinary food-animal drug retailer license shall be four hundred dollars (\$400). The annual renewal fee for a veterinary food-animal drug retailer shall be two hundred fifty dollars (\$250).

(t) The fee for issuance of a retired license pursuant to Section 4200.5 shall be thirty dollars (\$30).

SEC. 80. Section 4850 of the Business and Professions Code is amended to read:

4850. Every person holding a license under this chapter shall conspicuously display the license in his or her principal place of business.

SEC. 81. Section 28.5 of this bill incorporates amendments to Section 2234.1 of the Business and Professions Code proposed by both this bill and Assembly Bill 592. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2006, (2) each bill amends Section 2234.1 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 592, in which case Section 28 of this bill shall not become operative.

SEC. 82. Section 62.5 of this bill incorporates amendments to Section 4315 of the Business and Professions Code proposed by both this bill and Senate Bill 644. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2006, (2) each bill amends Section 4315 of the Business and Professions Code, and (3) this bill is enacted after SB 644, in which case Section 62 of this bill shall not become operative.

SEC. 83. Section 79.5 of this bill incorporates amendments to Section 4400 of the Business and Professions Code proposed by both this bill and Assembly Bill 497. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2006, (2) each bill amends Section 4400 of the Business and Professions Code, and (3) this bill is enacted after AB 497, in which case Section 79 of this bill shall not become operative.

SEC. 84. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.